

A regular meeting of the City Council of the City of Newburgh was held on Tuesday, October 14, 2014 at 7:00 P.M. in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

The Prayer was led by Father Bill Scafidi followed by the Pledge of Allegiance.

Present: Mayor Kennedy, presiding; Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia – 7

COMMUNICATIONS

Councilwoman Lee moved and Councilwoman Angelo seconded that the Minutes of the September 22, 2014 Council Meeting be approved.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

CARRIED

PUBLIC HEARING

Mayor Kennedy called a public hearing that was advertised for this meeting to hear public comments concerning a local law adding Chapter 276 entitled "Tobacco" to the Code of Ordinances of the City of Newburgh.

Martin Colavito, City of Newburgh, said that his heart goes out to anyone who is affected by this. No matter how you add it up, the end use of using tobacco is addiction, disease and death. He doesn't want to take the choice away from anyone in regard to what they do with their lives as long as they are of age. Most people start smoking when they are young and they are not able to make the right decisions about something that could be detrimental to themselves so this is about giving people an opportunity and the time to recognize what is right for them. As far as the Tobacco Industry is concerned, the future consumers are the children and we as a community are all charged with protecting those who cannot protect themselves and with helping the helpless. He has heard people ask why the City is not addressing items bigger than this such as the drugs but the products being sold as tools to use tobacco are just loopholes to use substances that are illegal. This is about allowing people to get to a point and time in their lives where they can make a conscience decision on what they want to do.

Vincent Martello, Director of Community Health Relations for the Ulster County Department of Health and former Town Supervisor of the Town of Marbletown said that he is here tonight as the father of a beautiful nine year old daughter. Everyone knows how destructive the use of tobacco can be. It kills four hundreds of thousands of people here in the United States and it is the leading cause of death and serious illness in New York State. The tobacco companies say that they are not marketing to the children but they spend millions of dollars to market their products in the places where children frequently go. They do this because they have to recruit new smokers as their existing customers are literally dying off. He applauded the Council for moving forward with this and thanked them for taking this bold and courageous leadership.

Christine Bello, City of Newburgh, read and submitted the attached comments. (copy attached)

Virginia Diorio, City of Newburgh resident and small business owner said that she has raised three teenagers here and she has two grandchildren living here as well. She sees day in and day out that tobacco kills and people can say that this is not a problem but they are just putting their heads in the sand. This law is not going to address whether or not tobacco kills people it is going to address the issues that we face which she calls "*quality of life issues*". When her daughter has to stop on her way home from work to pick up some milk she has to go through all of the people who are standing outside. She may have her children with her and some of those people outside the store could have a pit-bull. She has to walk into a store where all of the windows are covered so she can't even see what's going

on inside. When she walks into the store with the children, she has to pass a case full of pipes and paraphernalia which is on display like it's candy. In addition, she has to pass by all of the beer and go all the way to the back of the store where the milk and eggs are. She then has to take the children to the counter to pay where there is more paraphernalia on the counter and the tobacco posters with caricatures to attract the children are at their eye level. She raised her children to be conscientious adults and she is raising her grandchildren the same way which they have to work very hard at but every time they walk into a store these things get combatted. When a friend's three year old grandchild says she wants some of that candy and she's pointing to a pink cigar it causes a problem. Why are cigars where the children can see them? Where is the candy? It's up high behind Plexiglas like someone is going to steal it but all of the paraphernalia is in a nice, pretty display case. She agrees that there are many more problems here but we need to continue with quality of life issues. She said that we don't have a decent supermarket here so the small businesses rely on the residents to purchase their groceries in their stores and they are just asking that they be family oriented and not make it a place to buy tobacco and drug paraphernalia. They are no longer willing to settle for less.

Barbara Smith, City of Newburgh, said that we must do what we must do in a manner that we are dealing with it in a very honest way. When she hears drug paraphernalia then let us deal with that and put to the shop owners what is required that they do with this drug paraphernalia to get it out of the sight of our children. We cannot confuse issues by saying that it is tobacco that you want to deal with when you actually want to go in another direction. According to the state law it says, *"Every retail dealer of cigarettes and tobacco products in New York State and every owner or operator of vending machines that sell cigarettes or tobacco products must register with the Department of Taxation and Finance"*. As of July, 2013, there were twenty one thousand nine hundred forty seven registered tobacco retailers in the State of New York. *"Cigarette wholesalers, retailers and distributors must also be licensed and Municipalities may establish their own licensing requirements"*. She does not know why we are establishing our own licensing requirements. Do we have people here in the City of Newburgh who sell cigarettes that do not have registration with the State and are these the people we are targeting or are we targeting the people who display drug paraphernalia and block the windows so you can't see inside the store? Is this a matter that should be dealt with by Code Compliance rather than putting another unenforceable law on our overburdened Police Department? There are some things we can legislate and some things we cannot. This legislation reads that the Police Department may conduct inspections in order to insure compliance. It says that they *"may"* do it and she feels that it won't get done because they won't have the time to get it done. She feels that people should be adult enough to know what should be in their store and to conform for the betterment of our community.

Kippy Boyle, Grand Street, said that she has read this fifty times now and her knee jerk reaction is to just let this pass because it will just be another law that won't be enforced. Several people have already talked about the law that's on the books preventing neighborhood stores and businesses from plastering their windows with signs so that people can see that it is safe to go in. That law has been on the books for quite a few years and it has never been enforced so she doesn't think this makes any sense. She added that the part that she likes about this is that no license will be issued if the applicant is not in compliance

with all New York State uniform building codes, fire prevention, property maintenance, electrical, etc. It seems like in addition to asking the Police Department to go into each property they are also going to have Code Inspectors go in before this license is issued. After they have done all of that, the public and the children will go into stores and be reassured by seeing a piece of paper on the wall. What a waste of time.

Bhajan Singh said that he owns two stores in the City of Newburgh; the gas stations at 401 Broadway and 115 Lake Street. He has been at one of these locations for eighteen years and other ten years and they pay a lot of taxes so if you take this product away then everyone is going to lose. He asked the Council to please not pass this law.

Dawn Wilkin, Coordinator for Team Newburgh, said that they did ask the businesses about four years ago to work with them in regard to tobacco and drug paraphernalia but they tore up their materials and threw them in their faces and told them to get out of their stores. This is not about penalizing any store that sells tobacco. Everyone says that it is the County's responsibility but what happened to the term, *"It takes a village to raise a child"*? You can teach these kids all you want at home but when they go to the store to get a stick of butter or a pack of gum they have all of these tobacco products right in front of them. How does a parent and the community combat that when they make it look beautiful and pretty? This is not about putting anyone out of business but our kids are getting sick and this is a gateway drug. How do we as a community stand by and allow this to happen when we have the power to change it? Everyone wants to complain that nothing ever gets done in Newburgh and ask why are the kids the way they are but these are our kids and our future and we are letting them down. Every time we go into a store and walk past this stuff and just let it ride then we are endorsing it and the kids think it's alright and that this is normal in Newburgh. As an urban community that is economically challenged we are being preyed upon by these tobacco companies and it is being allowed. This is not about hurting a business, it's about doing what is best for our future which is our kids.

Kevin O'Flaherty, Campaign for Tobacco-Free Kids, read and submitted the attached comments. (copy attached)

Janet Gianopoulos, City of Newburgh, said that a previous comment was made about the role of the parents in questioning their children about what they will see. She believes that Wal-Mart still sells cigarettes and families always go there so she doesn't know that this law will remove cigarettes from children's sight. In Ulster County they refer this matter to the County Health Department so why are we not collaborating rather than adding this to our already overburdened law enforcement agency. She feels that this also overburdens the stores who may already be in compliance with the majority of our laws so we should collaborate with other agencies instead of making this another small issue in Newburgh.

James Calvin, President of the New York Association of Convenience Stores, submitted and read from the attached comments. (copy attached)

Yvonna, an Attorney with a decade of experience in tobacco control, speaking as the Director for the Center for Public Health and Tobacco Policies which is funded in part by

the New York State Department of Health to develop and support policy initiatives to reduce tobacco related morbidity and disease. She said that her comments should not be construed as supporting or opposing this specific proposal but rather a sharing of how and why the policy and others like it are feasible and effective tobacco control measures. The proposal for restricting the location of tobacco retailers is legitimate and permissible for a community seeking to curb tobacco use. This is not a compliance issue, which is how it is frequently presented. This is about the perception and the tobacco industry coming in and marketing to youth and other disadvantaged populations and the pervasiveness of product availability whether or not a minor can purchase it. The availability and the marketing that goes with it both send a distinct message about the acceptance of tobacco use. Tobacco industry marketing particularly at the retail environment is a cause of youth smoking. Tobacco is not a product that needs to be sold by all retailers it is a product that its users will seek to purchase. Municipalities have the right to restrict where this lethal product is sold and it is logical for the restrictions to focus the locations where youth are most likely to be exposed with tobacco product sales and marketing. Research shows that stores located near Schools where or adolescents frequent display nearly three times the amount of tobacco advertisements including exterior advertisements that they will pass on their commute to and from school. They also tend to offer lower priced cigarettes. This is not a redundant ordinance as in New York there is only a registration system for retailers with very little criteria. Likewise, the rules regarding the schools is new so enforcement of the location and capping the number of retailers would be something new and beyond what the State does and therefore requires additional enforcement which justifies the fee the Municipality needs to charge.

Megan DuBois-O'Connor, Power Against Tobacco, wanted to emphasize what Team Newburgh has done here in the City. With street outreach they have gained over nearly one thousand letters of support which range from the local resident to the FBI and the Hospital. This is something that the community has been asking for and she echoes the sentiments of her partner, Dawn with Team Newburgh. She noted that tonight they are Trailblazers because they are calling this "*The Newburgh License*". People are looking at Newburgh in a good light which is something that they have all been asking for. She understands the concerns of the retail environment but the reason they are all here tonight is for the youth. They are talking about one thousand feet from Schools not about outlawing tobacco completely. She noted that they don't have these problems in New Windsor. When she goes into her local gas station she doesn't have the tobacco and drug paraphernalia displays that they have here in the City of Newburgh. This is a situation that needs to be addressed and everyone is looking at Newburgh right now so she hopes that they get the honor and the attention that this deserves because it is a positive step in the right direction for our youth. The kids are considered the replacement smokers which is why they are marketing to the youth by making the advertising colorful and it looks like candy. They have taken Council members out on the streets and they were shocked to see the displays that were out there. This is what our kids are living with on a daily basis. She thanked the Council for their support and leadership and for continuing to stick by them because this has been a four year journey.

Michael Gabor, City of Newburgh, thinks that this whole thing is ridiculous. He heard the last speaker comment that in New Windsor they don't have displays of drug paraphernalia which is because the people from New Windsor are coming into Newburgh to buy their drugs. Here we are putting another layer of regulations on businesses that are already struggling in the City of Newburgh and this is a two hundred and fifty dollar license fee. A lot of these issues are code violations, such as the advertisements covering the windows which has always been a concern in the community yet nothing has ever been done about it by our Codes Department. This is a legal product that is being sold yet the City of Newburgh wants to regulate it. This is a State and National issue and as we have heard, Ulster and Dutchess Counties have been dealing with it in a different way at a county wide level. Why should we differentiate ourselves from the rest of the County and the State? New York City is one of the densest places where there are tobacco establishments yet they have a lower use of tobacco there. He thinks that this whole thing is ridiculous and that the Council is wasting a lot of time because they have a lot of other issues to deal with. As a small business owner, if he had this other layer of regulation put on him he would go elsewhere. Newburgh is not in a position to be putting any more burdens on these businesses. We receive a lot of tax money from the businesses that are here and they are Saints for being here and putting up with what they have to put up with.

A student from N.F.A. said that the people here are not around people her age at school and it is very easy for anyone in her school to get anything that they want. There are stores right down the street so you can just walk there and get it. She has seen this with her own eyes so this is about doing the right thing.

Regina Cieslak with Team Newburgh wanted to reiterate what her partners said about the reason why we are all here. It's not that they want to see anyone go out of business or that they want to take money out of anybody's pockets or mouths. We are all here to make a living but she has spent a lot of time here in the City of Newburgh with the youth and she is very concerned about trying to keep them as safe as we can for as long as we can. They are faced with difficult decisions and temptations all the time and all they are asking for is to give them a chance and keep it out of their eyesight and views. Try to make it a little safer for them so that they can stay children and safe and well a little bit longer.

Bob, Sales Manager for a wholesale grocery company said that along with selling candy and groceries they also sell tobacco and cigarettes. Cigarettes are legal and he doesn't think that anyone here thinks that cigarettes are good for kids but yet they are legal. This law does not talk about drug paraphernalia it talks about limiting the customers who will sell tobacco products. If you limit customers from buying from one store then those tobacco smokers will go to the store across the street to get what they need. If the Council made a law stating that the drug paraphernalia is illegal then he believes that the stores will remove it because they don't want to sell things that are illegal. He is just asking the Council to be fair and don't choose who can sell cigarettes and who can't.

Mr. Kelly, City of Newburgh resident and N.F.A student, said that tobacco is a major issue within the United States and Newburgh specifically. If you live in a city where for example a friend asked him to borrow a dollar and he lends it to him and then he comes out

of store smoking a cigarette and blows smoke in his face, that's an issue. If we have businesses here that are more worried about making money than the health of the youth, then that's an issue. If these "*Saints*" have an issue with putting the health of the youth before the money that goes into their pockets, then he feels they should pack their things and leave.

Bachan Singh, resident of the City of Newburgh for almost twenty-five years said that he has two stores here. One at 510 Broadway and the other at 515 Broadway. When he first bought his house in 1995, the taxes were \$1,700.00 and right now they are about \$8,000.00. When he first bought the business the taxes were \$18,000.00 but right now for the Sunoco station at 510 Broadway he is paying \$55,000.00 in taxes. They are just trying to make a \$1.00 on a pack of cigarettes so this is not a good law and he asked them to please not do this.

Alex said that he is not affected by this law as he has a small convenience store located in the Town of Newburgh but he appreciates the passion in the room tonight. Nobody wants to see the children smoking but the tobacco products are not illegal in the State of New York. Actually their biggest partner is the State of New York because for every \$10.00 of cigarettes they sell \$4.50 goes to the State of New York, \$5.00 goes towards the cost of the product and only fifty cents goes to the store owner. They are not really making a lot of money by selling the cigarettes here but it is a product that adults require and want so they come to the store to buy it and if they come in to buy cigarettes, they might also purchase something else. The passion that he hears here tonight against tobacco needs to be taken to the State level to have the laws changed. Penalizing a few stores in the City of Newburgh will not make a big difference because people will just go buy it elsewhere and it will not stop the youth from smoking.

Nancy Levine, member of Team Newburgh and Affinity Health Plan employee, said that it is true without a doubt that the tobacco industry does focus on minority neighborhoods. Her mother just turned eighty-three and she is currently lying in a Hospital bed dying from emphysema because she started smoking at the age of twelve. They are not trying to say that the stores are not allowed to sell tobacco but it is the way that it is marketed. They want to put it in the back of the store and out of the kids' faces. Back in the thirty's when her mother started smoking marketing told people it was good for them so that his how much the marketing can screw up your brain. That is what these stores are doing to the kids by having those cigarettes right up in their faces so they don't have a chance.

There being no further comments, this public hearing was closed.

Christine Bello 279 Broadway Newburgh NY

I am a small business owner in the city of Newburgh. I am not an advocate for the sale of tobacco products, and this law will not affect my business. However, it makes no sense to add another layer of laws to do what the state is already doing effectively.

4 of my biggest concerns with this legislation are:

- 1. The need for this legislation is based on antiquated data from 2008 that exaggerates the problem, as it exists in 2014.**
 - A. Just this year the State Dept. of Health declared that the sale of tobacco products to minors was at it's lowest point in 14 years.**
 - B. Compliance with the State laws among retailers in Orange County is between 97 and 98%. That is hardly the public health crisis that this legislation is trying to portray.**
- 2. The licensing SCHEME is just that, a scheme to bilk business owners unnecessarily out of more fees. The fact is these owners already pay for a state license to sell tobacco. It is as absurd as asking people to pay for a separate driver's license to drive in the city of Newburgh.**
- 3. Our Police Department is already overburdened and understaffed. We need our police officers available to handle the public complaints in this city, not tied up unnecessarily.**
- 4. This law without a doubt is going to trigger a lawsuit. Whenever you take over the use of someone's property through legislation you can expect to be challenged. Even if the city were to win a lawsuit, you may be expected to pay damages for the losses these owners will incur. My question to you is, why would you gamble with taxpayer dollars when we are already facing a million dollar deficit going into the budget season.**

The fact of the matter is that there will always be products in the marketplace that are unhealthy for children. However, the responsibility for mentoring children away from unhealthy products rests solely with the parents. It is not up to small business owners to mentor your child. Those business owners are there struggling to pay their taxes and trying to earn a living, like the rest of us.

Finally, over the last two years I've come to the conclusion that the city council does not value their businesses. I listened to all the work session recordings on this topic. Not one member of this council ever asked how this legislation would impact the local businesses.

Even though these businesses contribute a significant amount of tax revenue to the city, in your minds, they were not even worthy of being factored into the discussion. This legislation is nothing new, it's just the latest in a series of laws considered or passed over the last two years that are very harmful to businesses.

While you fiddle with the small stuff, the things that are already being regulated effectively at the state level, the children of this community can buy illegal drugs on most street corners, they can buy illegal handguns in this city, they are exposed everyday to gangs and gang violence. Those are the things that are the real threat to the kids of this community. Those are the things that are within your purview to remedy and those are the things I'd like to see the city council work to abolish.

While I am sure that your hearts are in the right place with this law because no one wants to see children smoke or begin to smoke, the fact is, you cannot legislate your moral beliefs at the expense of someone else's constitutional rights.



Newburgh City Council
Newburgh, NY
October 14, 2014

Testimony of Kevin O'Flaherty, Director of Advocacy – Northeast Region
Campaign for Tobacco-Free Kids

**In Regards to Adding Chapter 276 of the Code of Ordinances of the City of Newburgh Entitled
"Tobacco" and Enacting Article I Entitled "Tobacco Retail License"**

Good evening, Mayor Kennedy, Deputy Mayor Angelo, and Councilmembers. Thank you for the opportunity to speak briefly on the proposed ordinance to establish a local licensing system for retailers selling tobacco, including provisions to limit retail licenses in number and by location, including those close to schools.

The Campaign for Tobacco-Free Kids supports policies that reduce the use of, sales of, and exposure to tobacco in a community. If done in a thoughtful and meaningful way, we believe Newburgh's proposal to limit the number of retail tobacco licenses will ultimately reduce youth access and exposure to tobacco products and will help create environments supportive of quitting tobacco.

We have made substantial progress in reducing smoking. Because of tobacco control efforts, smoking by New York high school students declined by more than half from 2000 to 2012.¹ Yet, even with this public health success, an estimated 13,500 of New York's youth² become new daily smokers each year, greatly increasing their risk for chronic health ailments and premature death.³ The recent Surgeon General's Report noted that the "current rate of progress in tobacco control is not fast enough. More needs to be done." In fact, the Surgeon General found that given current smoking rates, an estimated 280,000 children currently under the age of 18 in New York will ultimately die prematurely from smoking.⁴ This is unacceptable.

The ubiquity and density of tobacco outlets, particularly outlets near schools, facilitates youth access to tobacco. There are an estimated 375,000 retailers selling tobacco products in the U.S. (more than the number of Starbucks or McDonald's).⁵ The majority are convenience stores,⁶ where more than half of all cigarettes are sold.⁷ With two-thirds of kids visiting stores like convenience stores or small grocery stores at least once a week, the chance of a kid being repeatedly and

regularly exposed to tobacco products is high.⁸ More frequent visits to stores selling tobacco and greater awareness of cigarettes sold in stores increases the likelihood of teenagers being susceptible to initiating, experimenting, or becoming current smokers.⁹ Retail density of tobacco outlets has been found to be associated with youth smoking and experimentation. Specifically, high school smoking rates are higher in areas with higher densities of stores that sell tobacco products than in areas with lower densities.¹⁰ Tobacco retailers are more densely located in lower income and minority neighborhoods.¹¹

The number and density of tobacco retailers is of particular concern because tobacco industry efforts to recruit and keep smokers have increasingly been focused at the point of sale (POS), where they spend more than 90 percent of their total marketing budgets to advertise and promote cigarette and smokeless tobacco products.¹² As a result of this spending, tobacco company marketing at the POS is pervasive. A national study published earlier this year found that almost all tobacco retailers (96%) featured at least one tobacco marketing material, with an average of nearly 30 marketing materials per store. About one in ten tobacco retail stores displayed tobacco products at heights of less than three feet, where they are easily visible to children, and 10 percent of stores displayed them within 12 inches of candy.¹³ The pervasiveness of this marketing and the fact that it is happening in the same stores where kids and adolescents go to buy candy, soda and afterschool snacks, ensures that kids have high levels of exposure to tobacco marketing.

Tobacco product marketing at the point-of-sale ensures that tobacco products are advertised heavily, displayed prominently and priced cheaply to appeal to both current and potential tobacco users, including impressionable, price-sensitive kids. Unfortunately, these efforts undermine all of our efforts to prevent youth from starting to smoke and to help smokers quit. Studies show that marketing at the POS provides cues to smoking, influences beliefs about the availability of tobacco and smoking initiation among youth, and stimulates purchasing among smokers trying to quit.¹⁴

Communities have a responsibility to protect their children and youth from the health effects of tobacco. Reducing the number of retail tobacco licenses is one way for your community to protect its citizens from the harmful effects of tobacco and limit youth exposure to tobacco. Requiring a wide distance between schools and retailers selling tobacco is consistent with this public health mandate. We cannot speak to the specific impact of the ordinance on retailers selling tobacco because we are not aware of the data unique to Newburgh that would inform an analysis of retailers in this community. However, we do believe that this ordinance will result in fewer retailers selling tobacco in Newburgh and will create a tobacco-free zone around schools, both of which will protect children and public health.

In summary, the Campaign for Tobacco-Free Kids believes this proposal utilizes a sound public health strategy to reduce the availability of tobacco to Newburgh's children and discourage tobacco use generally throughout this community.

¹ Bureau of Tobacco Control, *Trends in Current Tobacco Product Use Among High School Students in New York State*, Vol. 7, No. 1, February 2014,

<http://www.caiglobal.org/caistage/images/tctp/statshot%20vol7%20no1%20anyuse.pdf>, accessed 10/6/14

² Estimate based on U.S. Dept of Health & Human Services (HHS), *Results from the 2013 National Survey on Drug Use and Health: Summary of National Findings and Detailed Tables*,

<http://www.samhsa.gov/data/NSDUH/2013SummNatFindDetTables/DetTabs/NSDUH-DetTabsSect4peTabs1to16-2013.htm#tab4.10a> with the state share of the national number allocated through the formula in U.S. Centers for

Disease Control & Prevention (CDC), "Projected Smoking-Related Deaths Among Youth—United States," *Morbidity & Mortality Weekly Report (MMWR)* 45(44):971-74, November 8, 1996 [based on state young adult smoking rates, as updated in CDC, *Sustaining State Programs for Tobacco Control, Data Highlights*, 2006].

³ CDC, *The Health Consequences of Smoking – 50 Years of Progress A Report of the Surgeon General 2014*,

<http://www.surgeongeneral.gov/library/reports/50-years-of-progress/50-years-of-progress-by-section.html>

⁴ CDC, *The Health Consequences of Smoking – 50 Years of Progress A Report of the Surgeon General 2014*.

⁵ Center for Public Health Systems Science, *Point-of-Sale Report to the Nation: The Tobacco Retail and Policy Landscape*, 2014: p. 3

⁶ Center for Public Health Systems Science, *Point-of-Sale Report to the Nation: The Tobacco Retail and Policy Landscape*, 2014: p. 4

⁷ 2007 U.S. Census of Retail Trade, cited in *Deadly Alliance: How Big Tobacco and Convenience Stores Partner to Market Tobacco Products and Fight Life-Saving Policies*, March 5, 2012, p. 2

⁸ Henriksen, L, et al., "Association of retail tobacco marketing with adolescent smoking," *American Journal of Public Health* 94(12):2081-3, 2004

⁹ Paynter, J, et al., "Point of sale tobacco displays and smoking among 14-15 year olds in New Zealand: a cross-sectional study," *Tobacco Control* 18:268-274, 2009

¹⁰ Henriksen, L, et al., "Is adolescent smoking related to the density and proximity of tobacco outlets and retail cigarette advertising near schools?" *Preventive Medicine* 47(2):210-4, 2008; Novak, SP, et al., "Retail tobacco outlet density and youth cigarette smoking: a propensity-modeling approach," *American Journal of Public Health*, 96(4), 2006; Leatherdale, S, et. al., "Tobacco retailer density surrounding schools and cigarette access behaviors among underage smoking students," *Annals of Behavioral Medicine* 33(1):105-111, 2007; McCarthy, WJ, et al., "Density of tobacco retailers near schools: effects on tobacco use among students," *American Journal of Public Health* 99(11), 2009; Pokorny, S, et al., "The relation of retail tobacco availability to initiation and continued smoking," *Journal of Clinical Child and Adolescent Psychology* 32:193-204, 2003

¹¹ Loomis, BR et al., "Density of tobacco retailers and its association with sociodemographic characteristics of communities across New York," *Public Health*, March 2013

¹² U.S. Federal Trade Commission (FTC), *Cigarette Report* for 2007 and 2008, 2011,

<http://www.ftc.gov/os/2011/07/110729cigaretterreport.pdf>; FTC, *Smokeless Tobacco Report* for 2007 and 2008, 2011, <http://www.ftc.gov/os/2011/07/110729smokelesstabaccoreport.pdf>, data for top 6 manufacturers only.

¹³ Center for Public Health Systems Science. *Point-of-Sale Report to the Nation: The Tobacco Retail and Policy Landscape*. St. Louis, MO: Center for Public Health Systems Science at the Brown School of Social Work at Washington University in St. Louis and the National Cancer Institute, State and Community Tobacco Control Research, 2014.

¹⁴ Payntner, J & Edwards, R, "The impact of tobacco promotion at the point of sale: A systematic review," *Nicotine & Tobacco Research* 11(1), 2009; Slater, SJ, et al., "The Impact of Retail Cigarette Marketing Practices on Youth Smoking Uptake," *Archives of Pediatrics and Adolescent Medicine* 161:440-445, May 2007; Feighery, EC, et al., "Seeing, wanting, owning: the relationship between receptivity to tobacco marketing and smoking susceptibility in young people," *Tobacco Control* 7:123-28, 1998; Wakefield, M, et al., "The effect of retail cigarette pack displays on impulse purchase," *Addiction* 103:322-328, 2008. See, also, Wakefield, M & Germain, D, "Adult smokers' use of point-of-sale displays to select cigarette brands," *Australia New Zealand Journal of Public Health* 30(5):483-4, 2006; Carter, OB, et al., "The effect of retail cigarette pack displays on unplanned purchases: results from immediate postpurchase interviews," *Tobacco Control* 18:218-221, 2009.



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TESTIMONY OF JAMES S. CALVIN, PRESIDENT
New York Association of Convenience Stores

Before the
NEWBURGH CITY COUNCIL
October 14, 2014

Concerning Proposed Local Law to Add Chapter 276, Entitled
"Tobacco," to the Code of Ordinances of the City of Newburgh

The New York Association of Convenience Stores is a private, not-for-profit trade organization representing the interests of New York State's 8,000 neighborhood mini-marts, bodegas and convenience stores, many of which are independent, family-run enterprises.

Open extended hours, our member stores offer motor fuel, dairy products, coffee, baked goods, soft drinks, snacks, prepared food, health and beauty aids, automotive supplies, money orders, and other merchandise and services. They also sell beer, tobacco and lottery tickets to age-verified customers.

As parents, citizens and responsible business people, we share Newburgh's commitment to preventing youth access to tobacco products. In fact, the New York Association of Convenience Stores was one of the first entities approved by the New York State Department of Health as a provider of certified tobacco sales training; I have personally trained over 6,000 store clerks and cashiers, and managers in how to detect and thwart underage purchase attempts.

By utilizing this training, and by pro-actively implementing policies and procedures to prevent underage sales, our member retailers have helped improve Orange County's tobacco compliance rate from 82.5% a decade ago to 97.2% today, far better than the statewide average.

Viewing the subject legislation from the vantage point of responsible business owners trying to do the right thing, we find it to be fraught with erroneous assumptions, exaggerated assertions, duplicative provisions, arbitrary restrictions, and discriminatory exceptions, to wit:

PURPOSE AND INTENT

- The claim that "8.4% of middle school and 28% of high school students in the Hudson Valley area report that they usually purchase their cigarettes from a retail store" is preposterous.

- **The facts don't support the assertion that higher tobacco retail density equates to higher youth smoking experimentation.** This claim was taken verbatim from "model legislation" for local tobacco licensing prepared by the New York taxpayer-funded Center for Public Health and Tobacco Policy at New England Law School in Boston. The "research" referenced in the bill was one study, performed in 2003-04, based on California data. How does the sponsor explain that New York City, with the highest density of tobacco outlets in the state, today has a *lower youth smoking rate* than the statewide average?

- **The bill erroneously states that local tobacco licensing laws in other communities have been effective in reducing sales to minors.** In reality, the New York State Department of Health's Youth Access Tobacco Enforcement Program annual report covering October 1, 2010 to March 31, 2012 shows that two localities that require local licensing actually have *far worse* failure rates on sales-to-minors enforcement than Orange County -- New York City (9.3%) and Dutchess County (6.3%). Orange, with no local licensing, had a failure rate of only 2.8%.

LICENSING REQUIREMENT

- **Requiring every tobacco-selling store to obtain a license from the City would be redundant.** Tobacco retailers are already required to register annually with the New York State Department of Taxation and Finance. If the City needs a database of tobacco retailers, the Tax Department can email it to you in minutes.

- **Requiring every tobacco-selling store to pay a license fee of \$250 per year is arbitrary, duplicative, and anti-business.** Registering with the State of New York as retail tobacco dealers already costs these Newburgh stores \$300 a year. This would amount to double taxation.

- **Section 276-7, Paragraph B, outlining uses for license fee revenue, is baffling.** This paragraph was imported, verbatim, from cookie-cutter language prepared by the aforementioned Center for Public Health and Tobacco Policy at New England Law School. Both state that "The fee shall be calculated so as to recover the cost of administration and enforcement of this Chapter, including, for example, issuing a license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this Chapter." This raises questions and concerns:

- Imposing a license requirement and charging a license fee to cover the cost of issuing the license and "administering the license program" strikes us as the height of bureaucratic circular logic.

- Nowhere does the bill assign anyone responsibility for carrying out the "retailer education" that the City allegedly would need license-fee revenue to cover.

- Retail compliance checks are already carried out by the Orange County Department of Health twice a year at every Newburgh tobacco outlet. The bill would also authorize the City Police to perform periodic retail inspections, but not require them to do so. Therefore, such City expenses may not be incurred at all.

- Why would the City need fee revenue to pay for "prosecution of violators" when, under Section 276-9, it stands to recover fines of \$500 to \$2,000 per occurrence from those violators?

- **There is no rational basis for singling out tobacco retailers for local licensing.** Many other businesses in Newburgh are licensed by the State of New York – liquor stores, restaurants, taverns, beverage centers, food stores, hair and nail salons, etc. Does Newburgh contemplate requiring them to obtain local licenses and face the prospect of losing their right to conduct business because of a City-imposed quota system as well?

LIMITING THE NUMBER OF LICENSES

- **Statutorily capping the number of tobacco outlets citywide would improperly interfere with retail commerce.** Given that tobacco is a legal product, artificially limiting the number of first-year local tobacco licenses, and systematically reducing them thereafter, is unwarranted and inappropriate.

- **There is no justification for granting preferential treatment in license retention to “adult-only establishments” as proposed.** Previous NYSDOH Youth Access Tobacco Enforcement Program annual reports list dozens of ostensibly “adult only” smoke shops around the state that were easily penetrated by undercover minors who successfully purchased tobacco during compliance checks. Without a mechanism to independently corroborate that the establishment *actively and reliably* excludes minors every hour of every day, the City cannot legally or morally justify labeling them “adult-only” or giving them priority status for receiving any new tobacco licenses to be granted.

- **It would be highly inappropriate under Section 276-3-B-(8) to reject a tobacco license renewal application on the grounds that the store has an underage sales violation on its state tobacco enforcement record for which it has already satisfied the appropriate penalty under state law.** Retailers cannot be separately penalized by one jurisdiction for a prior offense that was duly adjudicated by another jurisdiction.

- **It’s unreasonable to force an applicant for a new tobacco license to first spend \$300 to obtain State tobacco dealer registration effective January 1 in order to qualify to obtain a City tobacco license,** then pay a non-refundable \$50 application fee to the City, without knowing whether such City license will become available on February 1 under the arbitrary lottery system set forth in Section 276-4-D.

PENALTIES

- **Section 276-8, Revocation or Suspension of Licenses, inappropriately imposes double jeopardy on licensed tobacco retailers.** As drafted, if the Orange County Health Department finds a Newburgh store to have violated New York State Public Health Law by selling tobacco to a minor, and assesses a fine of \$300 to \$1,500 in accordance with that law, the City, although uninvolved in the prosecution, would have grounds to suspend the store’s local tobacco license for three months or more, so that it could no longer sell tobacco. This piling-on provision is not only excessively punitive, but legally questionable.

DISTANCE FROM SCHOOLS

- **It's one thing to legislate that no *new* establishments opening within a certain distance of a school may sell tobacco. It's quite another to tell pre-existing convenience stores that have sold tobacco to adult customers for decades in accordance with State law that, because of the new school buffer zone, they must immediately forfeit a legal product category that is essential to their economic survival.** A legal challenge is inevitable.
- **The provision setting forth the 1,000-foot buffer zone fails to make clear whether the distance would be measured as road feet or in a straight line.** Conceivably, stores three blocks away from a school, situated along streets not typically used as routes to/from the school yet 1,000 feet away from the school as the crow flies, could have to forfeit their adult tobacco sales in the name of shielding school children who never pass by.
- **The 1,000-foot rule ignores where the majority of underage smokers obtain cigarettes.** Year after year, the U.S. Centers for Disease Control report that the vast majority of teen smokers get their cigarettes not from retail stores, but from older relatives, neighbors or friends. Arbitrarily forcing stores to quit selling tobacco is not going to change that.

OTHER ISSUES

- **The definition of acceptable forms of identification to verify the age of a tobacco customer is in direct conflict with New York State law.** Section 276-1 says a photo ID card issued by an educational institution can be used for age verification. Under Section 1399-cc of the New York State Public Health Law, college IDs *are not* an acceptable form of ID for tobacco age verification.

CONCLUSION

NYACS is deeply concerned that this legislation has been developed without an appreciation of how severely legitimate small businesses would be impacted, and that it contains numerous provisions that are excessive, unfair, and unconstitutional.

While we strongly oppose passage of this law, we would welcome the opportunity to discuss these concerns in greater depth with members of the City Council or their representatives.

Thank you for the opportunity to comment.

COUNCIL COMMENTS ON THE PUBLIC HEARING

Councilwoman Abrams said that one gentleman raised the question about why New York City, with its great density, has lower youth smoking in the State and it's because their age limit to purchase cigarettes is twenty-one. The tobacco companies need to market to minorities and over-sees in order to get more replacement smokers because the people who smoke are dying. Cigarettes are a gateway drug to other drugs and someone asked what about the people who sell liquor, beer and wine but there is an amount of alcohol and potato chips and other things that are bad for you that each adult can consume without dying and ruining their lungs or their health. Just one puff of a cigarette hurts your lungs and stays with you and to her that is the key difference. We are not trying to legislate morality they are trying to legislate common sense and good health for our youth.

Councilwoman Angelo thanked everyone for their comment this evening and noted that they are not going to be taking a vote on this tonight. They will probably bring it to a vote at the next Council meeting.

Councilman Brown said that he requested this public hearing because he was sort of on the fence about this legislation. It is tough for him because he once owned a retail store here in the City of Newburgh and he understands about the selling of tobacco products. The law is really strict on one thousand feet and he thinks that what needs to happen now is that this Council as a whole needs to have a discussion on some possible compromises to those retailers who are currently in that range. He will present those compromises at the next Work Session and he will make sure that the Council members have what he thinks should be a fair compromise because he thinks that what is important is that when we do protect the youth of this City that we do it without harming any retailer financially.

Councilwoman Holmes thanked everyone for their comments.

Councilwoman Lee wishes we could get this many people to come out when they are talking about funding education as it's really nice to see so many people out tonight. Unfortunately she is a proponent of keeping cigarettes and beer out of the view of children. She often goes into stores where the windows are covered with signs that advertise different kinds of cheap beer and this City needs to look different. She hopes that the business owners realize that they are not saying to stop selling cigarettes and start eating vegetables. They are saying to please put their cigarettes out of the reach of children and she hopes that the two issues don't get further confused. Cigarettes are probably the most addictive of all substances so she is suggesting that we work together because this has to be a partnership. It can't be that they are going to lose their business if they stop selling cigarettes because that is not going to happen. They are going to lose their business if taxes go up again and that is what they need them to stand up about not about selling cigarettes. For those who own their buildings the school tax is based on the assessed value of their property and she doesn't care if they sell a million packs of cigarettes a year because if their property is valued at five hundred thousand dollars their school tax is based on that. We need to find a way to fund education and she is hoping that they will come out and stand up for that because if people

are living longer then they will have their businesses longer. Standing up because they are upset because they have to move the cigarettes into a place where they can't be seen by children or they have to move the marijuana pipes away from the candy seem outrageous to her. She is asking them to get a grip and lets find an issue that we can work on and lets find a way to work together because in her mind no more will our children be subject to beer, drug paraphernalia and cigarettes sitting in their faces. It is no fair and it's not right so she is hoping that the stores will work with them. She doesn't think that their businesses are going to suffer because the kids can't see their cigarettes. That is a weak argument.

Councilwoman Mejia said that she is most troubled by the sentiment and the reputation that the City has for not enforcing what is already in our Codes. That is very troubling to her and she thinks that the take away from that is that as a community if we know the Codes then it is a two way street. She is looking to all of our responsible business owners to start moving in that direction and start forming partnerships to see how to create the community that we all want and deserve. She hopes that everyone in this room will join the Council in this effort. It was mentioned that the businesses are not making a whole lot of money so if it is not that lucrative then why don't we stretch a little bit and find other products that may be more lucrative. She also heard about the impact of the fee and she understands that there is an administrative cost associated with this but if that is the problem then let's do away with the fee. She re-emphasized that if we have Codes that are already on the books that are not being enforced, we need to solve that problem before we start adding additional ones.

Mayor Kennedy said that she has listened to both sides and this is all about the youth. The issue here is the marketing to the youth to get new users of not just tobacco but what is labeled as tobacco related products which is also drug paraphernalia. It is sold in bright colors and bright packages at the eye level of children. She noted that she ran a grocery store for seventeen years in another state so she has a business background and she understands the issues. This is not about being against businesses this is about being pro youth and helping our youth and that is it. There have been conversations even before she was on this Council about stores clearing their windows and cleaning up their stores. If businesses want to be proactive and clean up their stores by putting the products up high, they can do something voluntarily if they really care about this City and the youth. They can put the products up or in the back and they can get rid of the drug paraphernalia. That is what really needs to happen here. They are going to take all of this input and consider everything and then they will decide what they are going to put up as the final legislation.

There being no further comments, this portion of the meeting was closed.



CITY OF NEWBURGH

City Hall - 83 Broadway
Newburgh, New York 12550
Phone: 845-569-7301
Facsimile: 845-569-7370

Michael G. Ciaravino, City Manager

October 14, 2014

The Honorable Mayor Judy Kennedy
The Honorable Deputy Mayor Regina Angelo
The Honorable Genie Abrams
The Honorable Cedric Brown
The Honorable Cindy Holmes
The Honorable Gay Lee
The Honorable Karen Mejia

Re: City Manager's 2015 Proposed City Budget

Dear City Council Members:

I am pleased to submit my proposed 2015 Budget for the City of Newburgh for your review. In preparation of the budget, I set three goals: first, to reduce spending without reducing services; second, to maintain the property tax levy, and third, to freeze rates at the 2013 levels for Water, Sewer and Sanitation Funds. The Budget presented to you today achieves all three goals.

The City of Newburgh continues to operate under the guidelines of the State Comptroller's office in the preparation and approval of its budget. We have not increased the tax levy. We continue in 2015 to make great financial strides in controlling expenses while providing core services to the residents of the City of Newburgh.

My proposed budget reduces expenses below the 2014 levels while continuing to fund crucial positions. The Proposed Budget assumes all vacant positions throughout the City will be filled. In addition to providing additional full-time resources to the Department of Public Works, the Police Department and the Fire Department, it also provides funding for an additional part-time worker in Codes Enforcement, and maintains current staffing levels for all other departments.

I look forward to working with you in finalizing the Budget.

Sincerely,



Michael G. Ciaravino

City Manager

CITY OF NEWBURGH
FY 2015 BUDGET
CITY MANAGER BUDGET PRESENTATION

INTRODUCTION

The 2015 City Manager's Proposed Budget continues to focus on providing and expanding core services to the residents of the City of Newburgh without increases to the tax levy, water, sewer and sanitation funds. For the third year in a row, the City will maintain the same tax levy base \$19.8 million and hold water, sewer and sanitation rates at the 2013 levels.

If we examine the 2014 General Fund Budget, the final budget entailed:

Revenues:

Tax Levy	\$19, 862,564
Other	\$14,113,522
Sales Tax Revenue	\$10,225,000
Total Revenue	\$44,201,086
Total Expenditures	\$44,201,086

The 2014 budget was balanced through increases in revenue and the utilization of the City's Fund Balance. It was the first time the City was able to maintain a balanced budget without increases to the tax levy, utility rates, or headcount reductions.

In March of 2014, Moody's Investment Services upgraded the City's Bond Rating to Investment Grade. With this upgrade, the City was able to resell our 2013 BAN along with two older bonds at significantly lower interest rates. This resulted in significant savings in interest payments over the life of the BAN and bonds.

BUDGET GOALS & OBJECTIVES FOR THE 2015 BUDGET

Fiscal Approach

- Reduce expenses without reducing services
 - Fiscal Year Analysis of proposed expenses to determine the necessity for Departmental Expense Requests
 - Use competitive bidding to reduce contract costs
 - Implement Overtime Controls
- Establishing alignment between capital and operating expenditures. For example, establish a schedule for vehicle replacement, capital repairs and infrastructure upgrades.
- Management of grants and submission for reimbursements on a timely basis
- Continue the successful Installment Payment Agreement (IPA) program which allow taxpayers to pay past due taxes and become current on their property taxes.

CITY MANAGER'S PROPOSED 2015 BUDGET

The City Manager's Proposed 2015 General Fund Budget is projected to be \$43,341,387. This is a balanced budget with no increase to the tax levy and no additional fees.

The Revenue Budget includes:

Real Property Taxes	\$19,862,564
Consumer Utility & Sales Tax	\$11,147,985
State Aid	\$ 5,109,656
Inter-fund	\$ 2,422,551
PILOT Payments	\$ 1,211,969
Departmental Income	\$ 965,545
Other*	\$ 954,163
Fund Balance	\$ 736,000
Fines and Forfeitures	\$ 726,254
License and Permits	\$ 204,700

** Franchise Fees, Charges for Services, Use of Money and Property, Sale of Real Property, Health Contributions, Proceeds International Festival.*

The City Manager's Proposed 2015 Enterprise Budget (Water, Sewer and Sanitation) is projected to be \$14,433,825. This is a balanced budget with no increase to the fees and without the need to use Fund Balance to close the gap between revenue and expenses.

The Enterprise Revenue Budget includes:

Water	\$ 5,738,512
Sewer	\$ 5,423,613
Sanitation	\$ 3,271,700

2015 CITY MANAGER PROPOSED BUDGET HIGHLIGHTS

- No increases in the Property Tax Levy
- No increase in Water, Sewer, and Sanitation rates
- Hiring 4 Police Officers (COPS Grant)
- Hiring 2 additional full-time workers for the Department of Public Works
- Hiring additional part-time workers for Codes and Police
- Hiring 1 full-time secretary for the Boards (Planning, Zoning, ARC, and CAC)
- Expanding recreational activities
- Backfilling all vacant positions
- No headcount reductions
- Implementing GPS Asset Management Software
- Implementing Public Stuff an electronic service response system

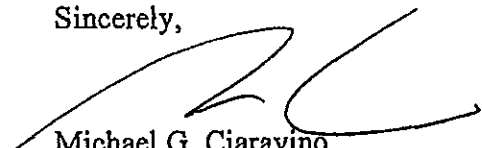
SUMMARY

The City of Newburgh continues to operate under strict fiscal management in the planning and management of its resources. The City of Newburgh is required to submit this financial document to the Office of the State Comptroller thirty days prior to the adoption of the budget. Therefore, the budget schedule is detailed below:

- October 14, 2014 Submission of the 2015 City Manager's Proposed Budget to Newburgh City Council and Office of the State Comptroller
- October 27, 2014 Budget Work Session
- October 30, 2014 Optional Work Session
- November 10, 2014 Public Hearing Scheduled (Proposed Budget)
- November 20, 2014 City Council Work Session to address State Comptroller's Recommendations and Regular Work Session
- November 24, 2014 City Council Adopts the 2015 Budget
- January 1, 2015 FY2015 Budget Year Begins

I would especially like to thank the City Comptroller, John J. Aber and his staff, Kathryn Mack, Amanda Scott-Aquino, Anna Marie Calli, and Helen Reilly, as well as the entire municipal team for their assistance in the development of this document. I look forward to discussing the 2015 Budget and to continue our process in the revitalization of this great City.

Sincerely,



Michael G. Ciaravino

City Manager

City Of Newburgh Proposed 2015 Budget

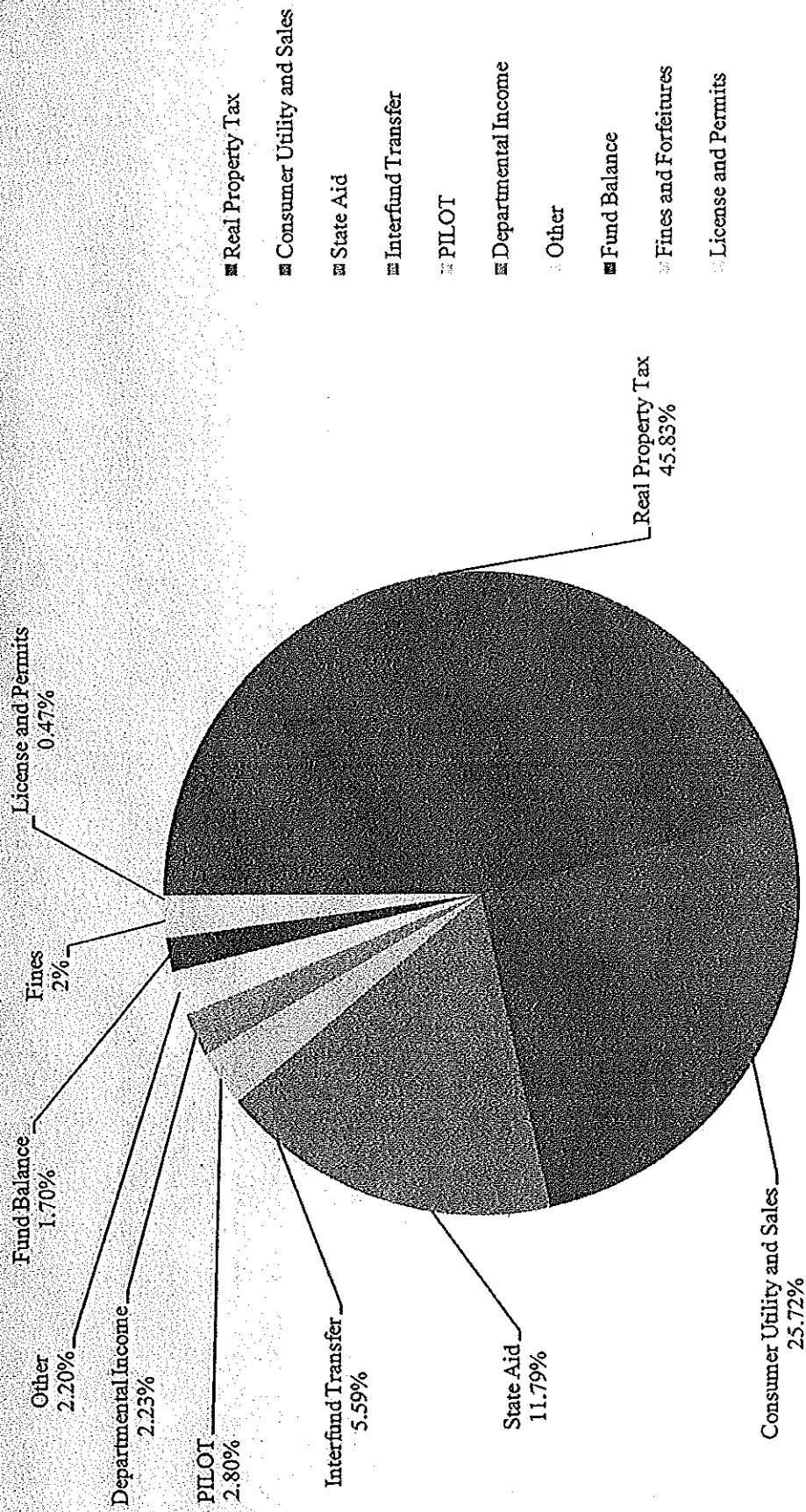


Michael G. Ciaravino
City Manager

John J. Aber
City Comptroller



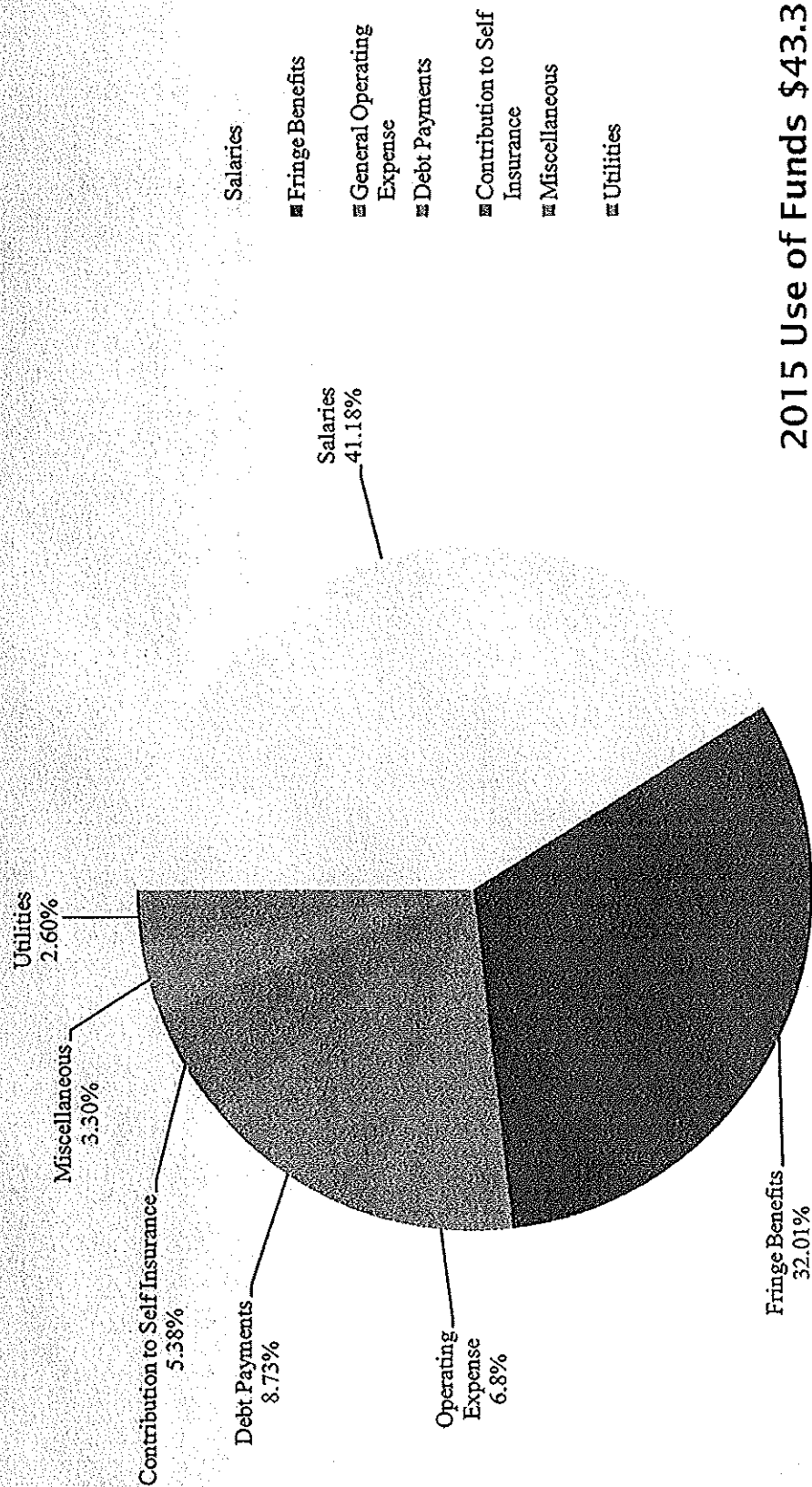
General Fund Revenue



2015 Source of Funds \$43.3m

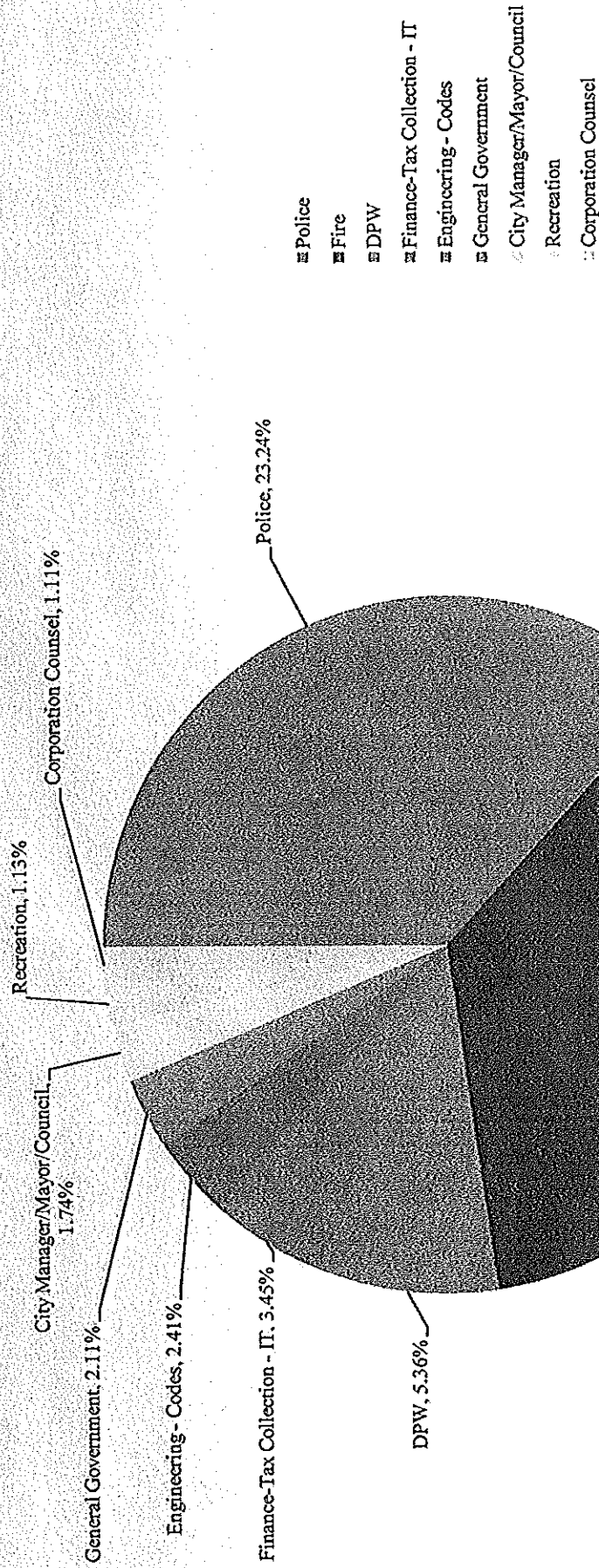


General Fund Expense





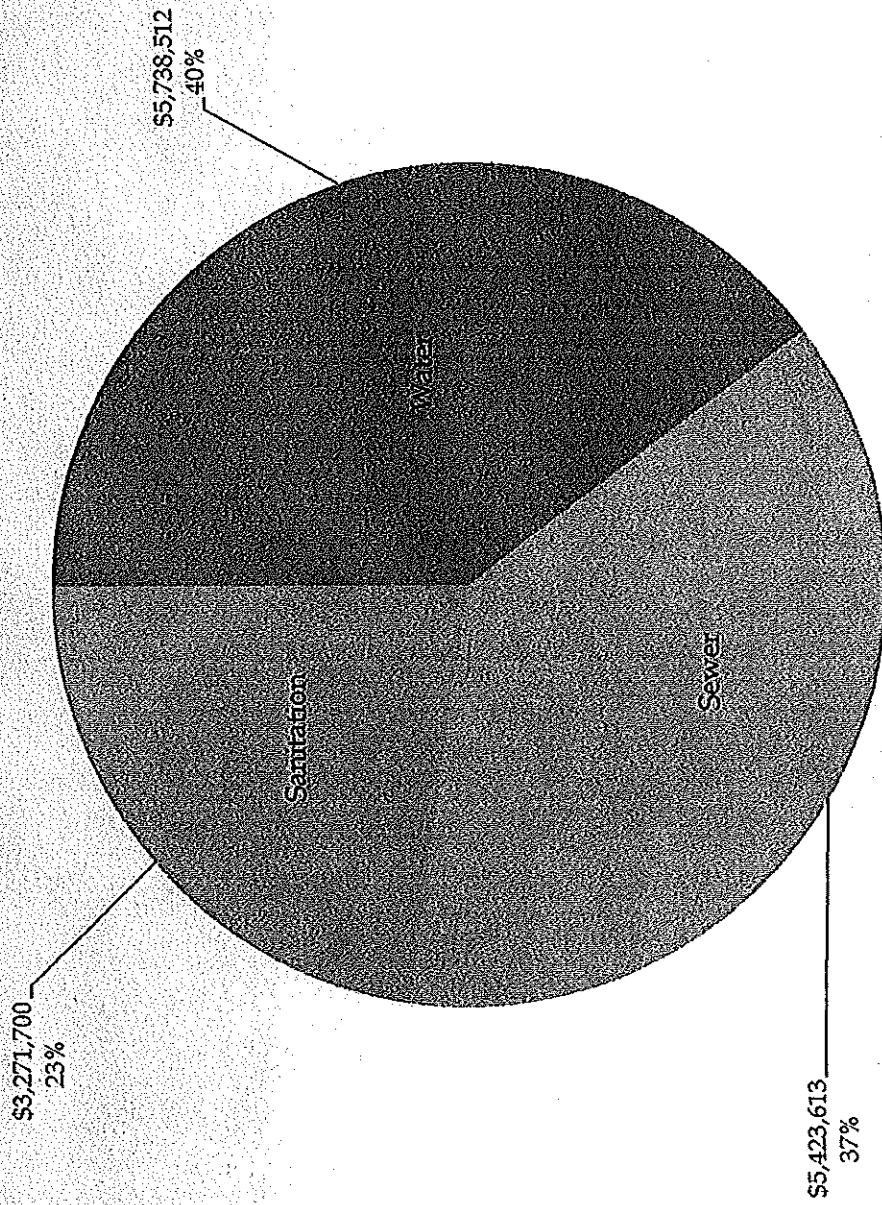
General Fund Department Expense Allocation



As a % of Total Salary and Fringe

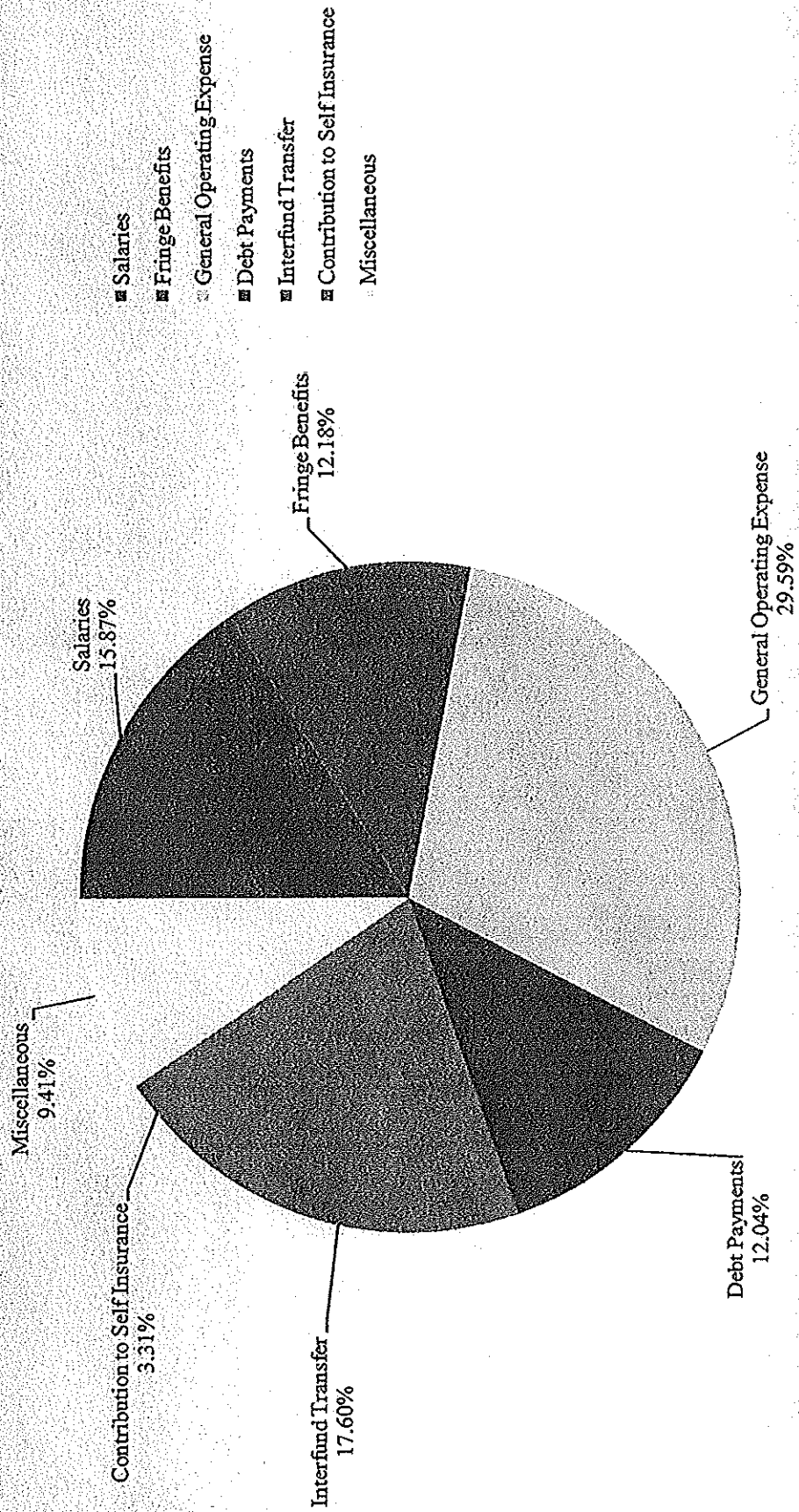


Enterprise Revenue





Enterprise Expense





Highlights of 2015 Proposed Budget

1. No increases in the Property Tax Levy
2. No increase in Water, Sewer, and Sanitation rates
3. Hiring 4 Police Officers (COPS Grant)
4. Hiring 2 additional full-time workers for the Department of Public Works
5. Hiring additional part-time workers for Codes, Police and Fire
6. Hiring 1 full-time secretary for the Boards (Planning, Zoning, ARC, and CAC)
7. Backfilling all vacant positions
8. No headcount reductions
9. Expanding recreational activities
10. Implementing GPS Asset Management Software
11. Implementing Public Staff an electronic service response system



Next Steps

>	October 14, 2014	Submission of the 2015 City Manager's Proposed Budget to Newburgh City Council and Office of the State Comptroller
>	October 27, 2014	Budget Work Session
>	October 30, 2014	Optional Work Session
>	November 10, 2014	Public Hearing Scheduled (Proposed Budget)
>	November 20, 2014	City Council Work Session to address State Comptroller's Recommendations and Regular Work Session
>	November 24, 2014	City Council Adopts the 2015 Budget
>	January 1, 2015	FY2015 Budget Year begins

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Michael Gabor, City of Newburgh, commented on resolution #249-14 regarding the parking meters. He heard some of the discussion at the Work Session and he got the impression that they were going to put meters in the parking lots including the City employee lots. As a business owner and resident in this general area, he thinks it is an extremely bad idea to be doing this at this time. He is lucky enough to have off street parking right now but he had to move his business because parking on Liberty Street was impossible. We also have a lot of things going on in the downtown area so people are not going to park in the parking lots; they are going to look for street parking and this will compete with the residents and businesses in this area. It is going to destroy any sense of living or business in this general area if they do this. Alternate side of the street parking will create another big issue and when you add snow in it will become a huge issue. We also have the Police and Fire Departments over here and the people who live and work here will be double parking which will also create a public safety issue. This is a bad idea and he doesn't know how this ever got this far without a comprehensive plan. He added that he wanted to commend the first Budget Proposal by our new City Manager because it was exemplary.

Barbara Smith, City of Newburgh, questioned resolution #261-14 regarding the Youth Empowerment Center and said that if she is not mistaken the last agreement made was with regard to funding and how this particular group would be funded but she doesn't know how they are being funded now. We have a gentleman from our Recreation Department who gave an excellent presentation at the Work Session about the standards by which we set that our children are exposed to. We are constantly talking about our children and the quality of care that our children are required to have. If there has been no change in the management of this particular program, how can we agree that we are going to relicense them with the same people that were there before? She is confused on this subject and asked for a clarification.

Janet Gianopoulos, City of Newburgh, said that Ms. Smith's comments expressed her concerns about resolution #261-14 as well. In regard to resolution #259-14, she said that there is an amount of money to be paid and this should be a win, win. There have been things said by people when they were running for office and her expectation is that the entire Budget will be looked at so there are options and that they are aiming for a rate that will not increase.

Pastor Austin, Executive Director of the Youth Empowerment Center commended the City Manager and the City Comptroller for an excellent presented Budget. She said that it was the first time that she actually understood what is actually in the Budget. In regard to resolution #265-14, she said that this is a tremendous service that is provided for the City and getting the youth off of the streets. We need to support each other and provide support where it is needed. If corrections need to be made, then we need to make them rather than pass judgment and deny services that should be provided. In regard to resolution #261-14 pertaining to the Youth Empowerment Center, she said that it is very easy to just sit back and throw stones. As she looks around the room, she knows every face that has every come to the Youth Empowerment Center and the parents who have four and five children that she

has personally fed out of her own pocket. They are funded because people care about them. She has not solicited one donation ever in the last twelve months but she has had people come to her door saying that her reputation speaks for itself and they want to partner with her and help her. They provide a quality service and it is a no cost program yet people want to replace it with a program that costs seventy two thousand dollars.

Rene Colandrea, President of Pop Warner asked about the grant for the soccer field, where it is going to go and how is it going to impact Pop Warner. They also would like to see if they could have the fee for the use of the field waved. They are struggling with trying to get the program off the ground for the kids and out of one hundred and fifty children they have maybe fifty that actually paid the registration fee. They are trying to keep the kids off the streets and out of trouble.

Robert, Commissioner for Pop Warner, said that they have been around for a long time and it has impacted a lot of lives including his own. They really need some support this year and with the upcoming years from the City of Newburgh. They are looking to see if they can have the fees waived this year due to the number of kids that they have and they don't want to turn anyone away and tell them they can't play because they can't pay. They have done everything they can and their President and some of the Coaches have taken from their own pockets too but they all have families of their own. If there is anything that the City can do it would be greatly appreciated.

There being no further comments, this portion of the meeting was closed.

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

There were no comments.

RESOLUTION NO.: 247 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND
ACCEPT IF AWARDED A GRANT FROM THE ORANGE COUNTY YOUTH
BUREAU IN THE AMOUNT OF \$7,400.00 REQUIRING NO CITY MATCH
FOR THE RECREATION DEPARTMENT TO FUND
A YEAR ROUND SOCCER PROGRAM IN THE CITY OF NEWBURGH**

WHEREAS, the City of Newburgh Recreation Department has advised that funding is available through the Orange County Youth Bureau; and

WHEREAS, such grant shall provide for a program to conduct soccer leagues during the winter, spring, summer and fall seasons; and

WHEREAS, funds will be utilized for the costs of referees, uniforms, trophies and, if necessary, gym rental; and

WHEREAS, no City matching funds is required; and

WHEREAS, this Council has determined that applying for and accepting said grant if awarded is in the best interests of the City of Newburgh and its youth;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a grant from the Orange County Youth Bureau in the amount of \$7,400.00 requiring no City match for the Recreation Department to fund a year round soccer program in the City of Newburgh; and to execute all necessary documents to receive and comply with the terms of such grant and to carry out the program funded thereby.

Councilwoman Lee moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 248 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION TO IMPLEMENT A CITY-WIDE
CURFEW FOR MINORS 16 YEARS OF AGE AND UNDER
ON OCTOBER 30TH AND 31ST
FROM 9:00 P.M. UNTIL 6:00 A.M.**

WHEREAS, the City of Newburgh has a general obligation to ensure the safety and welfare of the general population of the City including minors, along with protection of private property; and

WHEREAS, October, 30th and 31st are associated with Halloween related activities, including "Trick or Treating" and other related outdoor activities, some of which might be prejudicial to the safety and welfare of the population and protection of private property; and

WHEREAS, the City of Newburgh determines that the passage of a curfew resolution for Halloween and the preceding night will assist in protecting the welfare of minors by reducing the likelihood of their involvement in inappropriate behavior, while aiding parents or guardians of minors entrusted in their care;

NOW THEREFORE, BE IT RESOLVED:

THIS COUNCIL HEREBY DECLARES a city-wide curfew for minors from 9:00 P.M. until 6:00 A.M. each day, starting at 9:00 p.m. on Thursday, October 30, 2014, and ending at 6:00 a.m. on Saturday, November 1, 2014; and

BE IT FURTHER RESOLVED, this Council urges all parents to inform their children and supervise the implementation of this City-wide curfew so that we may avoid problems and promote the safety, health and welfare of our City's young people and property owners; and

BE IT FURTHER RESOLVED, that it shall be a defense to a violation of this curfew that the minor was accompanied by the minor's parent or guardian, engaged in an employment activity, or involved in an emergency or other legally justifiable activity.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 249 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT WITH
DIGITAL PAYMENT TECHNOLOGIES CORP.
FOR MUNICIPAL PAY AND DISPLAY PARKING METERS
IN AN AMOUNT NOT TO EXCEED \$46,612.52**

WHEREAS, the City of Newburgh has requested proposals for municipal pay and display parking meters; and

WHEREAS, proposals have been duly received and reviewed and it has been determined that Digital Payment Technologies Corp. has submitted the proposal that would most benefit the City of Newburgh; and

WHEREAS, the cost of the equipment and installation is \$41,312.52 and Digital Payment Technologies Corp. has agreed to sub-contracting electrical work to a local licensed electrician at a price not to exceed \$5,300; and

WHEREAS, this Council has reviewed such agreement and finds that the execution of such agreement is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter into an agreement with Digital Payment Technologies Corp. annexed hereto with other such terms and conditions as may be required by the Corporation Counsel for municipal pay and display parking meters.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

SALES QUOTE

Digital Payment Technologies Corp.
330-4260 Still Creek Drive
Burnaby, BC V5C 6C6
Phone: 1.888.687.6822
Fax: 604.687.4329
GST #: 86910 7094 RT0001
US Tax ID #: 98-0603996

Sales Quote No.: 30634
Sales Quote Date: July 9, 2014
Location Code: MAIN WHSE
Revision Date: 09/18/14

Revised 4/4/4

CONFIDENTIAL



PAYMENT TECHNOLOGIES

Page: 1

Bill To:
City of Newburgh
83 Broadway
City Hall, Fourth Floor
Newburgh, NY 12550
USA
John J. Aber
845.569.7300
jaber@cityofnewburgh-ny.gov

Sell To:
City of Newburgh
83 Broadway
City Hall, Fourth Floor
Newburgh, NY 12550
USA
John J. Aber
845.569.7300
jaber@cityofnewburgh-ny.gov

Ship To:
Integrated Technical Systems Inc. (I-T-S)
3651 Hill Rd.
Bldg 3
Parsippany, NJ 07054
USA
Joe Yorlano
973.585.6796

Customer ID:
End User:
Sell To EIN No.:
Payment Terms: Net 30
Sales Phone: 1.888.687.6822 x 485
Sales E-mail: marie.depasquale@digitalpaytech.com
P.O. No.:
Ref. No.:
Digital Iris/EMS Cust. Name: TBD

Ship Advice:	Complete
Ship Via:	Ground
Ship To EIN No.:	27-1951004
Freight Terms:	FOB -- Vendor, Prepay & Add
Account Managers:	Marie Depasquale/Bill Geraghty
Sales Code:	
Requested By:	
Outside Sales (NCM):	
Inside Sales (NCM):	

Item No.	Description	Unit	Qty.	Unit List Price	Disc. %	Unit Disc. Price	Total Price
900.0027	LUKEII-302B 38K-120V-EBCx-x-P Includes: 38-Key Keypad 120 Volt AC Coin Escrow, Bill Validator, Credit Card Reader 2 Inch Thermal Printer P-Label, set of 2	Each	4	14,315.00	50	7,157.50	28,630.00
880.4067	Modem Kit-CDMA Verizon-L2 (V5) 100.0084: Create New Key - Maintenance LII	Each	4	890.00	50	445.00	1,780.00
880.4030	Lock-Maintenance-L2	Each	4				
450.0018	Key-Green Ex.Access-S/L/LR/L2	Each	2	30.00	50	15.00	30.00
450.0019	Key-Yellow Ex.Access-S/L/LR/L2 100.0085: Create New Key - Collections LII	Each	1	30.00	50	15.00	15.00
880.4036	Lock-Collections-L2	Each	4				
450.0018	Key-Green Ex.Access-S/L/LR/L2	Each	2	30.00	50	15.00	30.00
450.0019	Key-Yellow Ex.Access-S/L/LR/L2	Each	1	30.00	50	15.00	15.00
450.0033	Key-Bill Stacker Access-L2	Each	2	30.00	50	15.00	30.00
450.0006	Key-Hopp/Canister Acc-S/LR/L2	Each	2	10.00	50	5.00	10.00
880.4040	Coin Shutter-L2	Each	4	125.00	50	62.50	250.00
115.0108	Coin Canister-L2 - installed in base unit	Each	4	600.00	50	300.00	1,200.00
115.0108	Coin Canister-L2 - collection spare	Each	4	600.00	50	300.00	1,200.00
115.0132	Bill Stacker 1000 Note-L2 - installed in base unit	Each	4	485.00	50	242.50	970.00
	Continued on page 2						34,160.00

SALES QUOTE

Digital Payment Technologies Corp.
330-4260 Still Creek Drive
Burnaby, BC V5C 6C6
Phone: 1.888.687.6822
Fax: 604.687.4329
GST #: 86910 7094 RT0001
US Tax ID #: 98-0603996

Sales Quote No.: 30634
Sales Quote Date: July 9, 2014
Location Code: MAIN WHSE
Revision Date: 09/18/14

Revised
CONFIDENTIAL



Page: 2

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	Continued from page 1						34,160.00
115.0132	Bill Stacker 1000 Note-L2	Each	4	485.00	50	242.50	970.00
	- collection spare						
100.1110	Multilingual Software	Each	4	340.00	50	170.00	680.00
100.1108	Digital Iris/EMS Profile Set-Up	Each	1	1,000.00	50	500.00	500.00
880.0086	BOSS Software-C	Each	1	200.00	50	100.00	100.00
	Per PC						
880.4084	USB Data Key-C	Each	1	65.00	50	32.50	32.50
663.0013	Paper 2in	Each	20	21.00		21.00	420.00
	No Perf/v Varnish						
	Hardware and Software Warranty - 1 additional year	Each	4				
	(total of 2 years at no additional cost)						
	Initial programming, installation	Each	4	875.00		875.00	3,500.00
	(to existing concrete sidewalk or mounting pads),						
	and training of City parking personnel.						
	Note: Installation and training will be provided						
	by Integrated Technical Systems (ITS).						
	ITS will be liable for all onsite installation services						
	and provide their own insurance coverage						
	for this work.						
	Shipping & Handling	Each	1	950.00		950.00	950.00
	ESTIMATE ONLY						

Shipping quoted is ESTIMATE only.
Actual cost to be reflected on invoice.

Client card must be completed and returned prior
to placing order. (Form provided separately)

Iris/EMS Q#500758 & information provided separately.
Order will not ship without Iris/EMS agreement
being accepted by client.
Iris/EMS Core @ \$50 per unit per month.
Coupons on trial for initial 3 months.
See Iris/EMS Quote for further details.

Any applicable sales tax not included in quote.
Installation not included in quote.
Installation to be provided by ITS.
Continued on page 3

41,312.50

SALES QUOTE

Digital Payment Technologies Corp.
330-4260 Still Creek Drive
Burnaby, BC V5C 6C6
Phone: 1.888.687.6822
Fax: 604.687.4329
GST #: 86910 7094 RT0001
US Tax ID #: 98-0603996

Sales Quote No.: 30634
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DIGITAL
PAYMENT TECHNOLOGIES

Page: 3

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Item No.	Description	Unit	Qty.	Unit List Price	Disc. %	Unit Disc. Price	Total Price
	Continued from page 2						41,312.50
	Training not included in quote. Training to be provided by ITS.						
	Please review all details on this quote, including ship to address, EIN number, and key code. If you would like to proceed with placing this order, please submit a matching signed quote to fax 604.687.4329.						

Amount Subject to Sales Tax	Amount not Subject to Sales Tax
0.00	41,312.50

Total:	77,755.00
Discount:	-36,442.50
Subtotal:	41,312.50
Total Tax:	0.00
Total:	41,312.50

Quote is valid for 90 days from Quote date.

PAST DUE AMOUNTS SUBJECT TO INTEREST AT 18% PER ANNUM.

Terms and Conditions of Sale are available at <http://www.digitalpaytech.com/terms>

Please note that if sales taxes are not charged, if applicable, taxes should be self-assessed and remitted to the appropriate tax authorities.

Quote Acceptance:	PO#	PO Date	Print Name	Authorized Signatory	Title
-------------------	-----	---------	------------	----------------------	-------

Thank you for your business!

Fax Back to: 604.687.4329

RESOLUTION NO.: 250 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT WITH SYNOVIA SOLUTIONS, LLC
FOR AN AMOUNT NOT TO EXCEED \$42,750.00
FOR THE LEASE OF GPS MANAGEMENT EQUIPMENT FOR CITY VEHICLES**

WHEREAS, the City of Newburgh wishes to enter in to the annexed agreement with Synovia Solutions, LLC to lease GPS hardware and software as well as for installation in City vehicles, ongoing training and carrier activation; and

WHEREAS, the term of such lease is 60 months with an annual cost of \$8,550.00 and a total contract cost of \$42,750.00; and

WHEREAS, this Council has reviewed such agreement and finds that the execution of such agreement is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into an agreement with Synovia Solutions, LLC, in substantially the same form as annexed hereto and subject to such other terms and conditions as may be required by Counsel, to lease GPS management equipment to be installed in City vehicles.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED



synovia

9330 Priority Way West Drive
Indianapolis, IN 46240
Phone: 317-208-1700
Toll Free: 1-877-796-6842
Fax: 317-208-2202

MUNICIPAL SYNSURANCE AGREEMENT

No: 3279

Customer Legal Name City of Newburgh		Customer Billing Address (If different)	
Address 83 Broadway		Address	
City Newburgh	County Orange	City	County
State New York	Zip Code 12550	State	Zip Code
Location Contact: John J. Aber	Phone 845 569 7322	Fax 845 569 7490	Salesperson
Tax ID#		<input type="checkbox"/> K-12 <input checked="" type="checkbox"/> Other Municipal	
PO Number (if applicable):		PO Expiration Date:	

CONTRACT DURATION/VEHICLES			
Term of Agreement: <input type="checkbox"/> 36 Mo. <input type="checkbox"/> 48 Mo. <input checked="" type="checkbox"/> 60 Mo. <input type="checkbox"/> ____ Mo.			
Number of Vehicles:			
Effective Date			
Tax Exempt: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (Attach Certificate)			
THIS AGREEMENT COVERS THE FOLLOWING:			
SILVERLINING SOFTWARE		EQUIPMENT LIST	
<input checked="" type="checkbox"/> Core Track & Trace		TYPE	QTY
<input type="checkbox"/> Comparative Analysis		LMU:	2620 16
<input type="checkbox"/> Time and Attendance		LMU	3000 19
<input checked="" type="checkbox"/> Engine Diagnostics		Peripheral:	
<input type="checkbox"/> Parent Portal			
		Other:	
Carrier: <input type="checkbox"/> Synovia <input checked="" type="checkbox"/> Verizon <input type="checkbox"/> Sprint <input type="checkbox"/> AT&T			
Installation: <input checked="" type="checkbox"/> Synovia <input type="checkbox"/> Customer <input checked="" type="checkbox"/> Customer to be Trained By Synovia			
SPECIAL INSTRUCTIONS: . LMU 3000 @ \$19 each LMU 2620 @ \$21.50 each			
METHOD OF PAYMENT			RATE PER UNIT
Base Payment \$ _____ X Number of Vehicles <u>35</u>			= Total \$ <u>\$629</u>
			Applicable Sales Tax _____
			Total _____
<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Annually <input type="checkbox"/> ACH <input type="checkbox"/> Credit Card <input type="checkbox"/> Check			
PLEASE READ BEFORE SIGNING: THE CUSTOMER AGREES TO RENT FROM VENDOR THE EQUIPMENT LISTED ABOVE. THE CUSTOMER AGREES TO ALL TERMS AND CONDITIONS CONTAINED IN THIS RENTAL AGREEMENT. THE CUSTOMER AGREES THIS RENTAL AGREEMENT IS FOR THE RENTAL TERM INDICATED ABOVE AND CANNOT BE CANCELLED FOR ANY REASON, EXCEPT AS PROVIDED HEREIN.			
AUTHORIZATION			
Company Full Name (Please Print)			
Authorized Signature	Date	Authorized Representative of Synovia	
Authorized Signer's Printed Name	Title		

RENTAL AGREEMENT TERMS AND CONDITIONS

1. **OWNERSHIP OF EQUIPMENT.** Synovia Solutions, LLC (hereinafter referred to as "Vendor") is the sole owner and titleholder to the Equipment. The Equipment consists of the unit(s), all peripherals, and/or connections and supplies used for installation. This Agreement constitutes a lease or bailment and is not a sale or the creation of a security interest. Customer shall not have, or at any time acquire, any right, title or interest in the Equipment, except the right to possession and use as provided in this Agreement.

2. **RENT.** The Customer agrees to pay Vendor the rental payment when due. If any payment is more than ten (10) days late, the Customer agrees to pay a late fee of ten percent (10%) or Ten Dollars (\$10), whichever is greater, on the overdue amount. Customer also agrees to pay Twenty-Five Dollars (\$25) for each check or ACH that the bank returns for insufficient funds or any other reason. Vendor shall have the right to increase the rent upon renewal or extension of this Agreement. Vendor shall notify Customer of the rental increase forty-five (45) days before the expiration of the Initial Term.

3. **SYNSURANCE.** Vendor warrants to provide to Customer at no cost the following: Automatic quarterly updates with new features, map data, patches and hot fixes; 6 months of "bread crumb" data plus 2 years of reporting; Proactive trouble shooting on a weekly basis; hardware script updates twice per year; Uptime at 99% or Vendor will provide a credit for one days charge for the entire fleet; Lifetime hardware warranty with replacements; 2% spares on site with spare replacement within 48 hours; First occurrence fix or Vendor will provide a credit for once days charge for the entire fleet.

4. **TAXES AND FEES.** This is a net rental. Customer agrees to pay on or before their due dates, all sales taxes, use taxes, personal property taxes, and assessments or other direct taxes or governmental charges imposed on the property or leveled against or based on the amount of rent to be paid under the Agreement or assessed in connection with this Agreement, even if billed after the end of the rental period. Customer shall promptly notify Vendor and send Vendor copies of any notices, reports and inquiries from taxing authorities concerning delinquent taxes, fees or other charges or assessments received by Customer. Customer shall be liable for any taxes or licenses, registrations, permits and other certificates as may be required for the lawful operation of the Equipment. If any taxing authority requires that a tax be paid to the taxing authority directly by Vendor, Customer shall, on notice from Vendor, pay to the Vendor the amount of the tax together with the next rent installment. Vendor has the option to estimate all such taxes due and bill the Customer monthly on the basis of same.

5. **NON-APPROPRIATION OF FUNDS.** The Customer affirms that funds can and will be obtained in amounts sufficient to make all Synsurance Agreement Payments during the Agreement term. The Customer hereby covenants that it will do all things within its power to obtain, maintain and properly request and pursue funds from which the Synsurance Agreement payments and payments for other related charges, if any, may be made, specifically including in its annual budget requests amounts sufficient to make such payments for the full Synsurance Agreement term. The Customer intends to make all such payments for the full Synsurance Agreement term if funds are legally available for that purpose. If your official governing body does not allot funds for the succeeding fiscal year to continue such payments under the Synsurance Agreement, and you have no other available funds to continue making such payments under the Synsurance Agreement or to purchase, lease or rent other equipment or services to perform functions similar to those performed by the Equipment under this Agreement, you may terminate the Synsurance Agreement at the end of the then current fiscal year, by giving ninety (90) days prior written notice to Vendor, and enclosing therewith a sworn, notarized statement that the foregoing conditions exist. The foregoing shall be the sole circumstance in which the Customer will not be legally obligated to continue making such payments beyond the end of the then current fiscal year. Upon the occurrence of this event, if any Synsurance Agreement is terminated by the Customer in accordance with this paragraph, you agree (i) not to purchase, Lease or rent personal property to perform the same or similar functions as, or functions taking the place of, those performed by the Equipment under this Synsurance Agreement, and (ii) not to permit such functions to be performed by your own employees or by any agency, contractor, service provider or other entity affiliated with or hired by you, for a period of three hundred sixty (360) days; provided, however, that these restrictions shall not be applicable in the event that the Equipment under this Synsurance Agreement is sold by us and the amount received from such sale, less all costs of such sale, is sufficient to pay the then balance otherwise then due from you under this Synsurance Agreement. If the application of these restrictions would affect the validity of this Synsurance Agreement, you agree to provide us with an opinion of your counsel relating to the circumstances of non-appropriation. Upon the occurrence of this event, you shall, at your cost and expense, both restore the Equipment to its original condition (excepting only reasonable wear and tear) and return it to us in accordance with the terms set forth in Section III of this Addendum. Upon termination of the Synsurance Agreement by reason of non-appropriation of funds as provided herein, you shall not be responsible for the payment of any additional Agreement Payments coming due with respect to succeeding fiscal years. However, (a) you shall continue to remain responsible for the payment of all past due payments and other obligations that accrued under the Agreement prior to the end of the 90-day notice period referred to above; and (b) if you have not delivered possession of the Equipment to us at your expense and conveyed title to us or your interest in the Equipment to us within ten (10) days after the termination of the applicable Synsurance Agreement, the termination shall nevertheless be effective, but you shall be responsible for the payment of damages in an amount equal to the amount of the Synsurance Agreement payments thereafter coming due under the Agreement that are attributable to the number of days after such ten (10) day period during which you fail to take such actions, plus all other losses suffered by us as a result of your failure to take such actions as required. Non-Appropriation under one Synsurance Agreement shall not affect the validity or enforceability or any other Synsurance Agreement or contract between you and us.

6. **UCC FILINGS.** The Customer authorizes, appoints, and empowers Vendor and its assignees as its true and lawful attorney-in-fact to prepare, execute in the Customer's name and file at Customer's cost any and all documents Vendor or its assignees deem appropriate or desirable in connection with the Uniform Commercial Code, including but not limited to UCC financing statements. The Customer authorizes Vendor to insert the serial numbers of the Equipment in this Agreement in any filings.

7. **LIABILITY AND INSURANCE.** The Customer is responsible for any losses or injuries caused by the Equipment. Customer assumes all risk and liability for the loss or damage to the Equipment or the injury to any person or property of another, and for all risks and liabilities arising from the use, operation, condition, possession or storage of the Equipment. The Customer must continue to make rental payments through the entire term of this Agreement and may not cancel this Agreement for any reason, even if the Equipment has been damaged or destroyed. Vendor is not responsible for any losses or injuries caused by the installation or use of the Equipment. The Customer promises to keep the Equipment fully insured against loss and maintain insurance that protects Vendor from liability for any damage or injury caused by the Equipment or its use. Upon the request of Vendor, the Customer shall provide Vendor evidence of insurance showing Vendor as the loss payee. If the Customer fails to provide such evidence within fifteen (15) days, the Customer authorizes Vendor to obtain coverage on its behalf, or alternatively, Vendor may choose to self-insure. In either case, Customer authorizes Vendor to add an insurance surcharge to

the Customer's rent. Customer authorizes Vendor to file claims and endorse insurance checks on the Customer's behalf. This Synsureance Agreement specifically excludes damages or loss due to theft, vandalism, any use outside normal wear and tear, Acts of God, or other circumstances outside the control of Synovia. This agreement also excludes loss due to changes to cell phone providers, coverage area changes or other changes to cell phone or internet availability. Customer understands and accepts that the hardware devices are carrier specific and any changes to the carrier might results in non-performance of the hardware devices. Customer agrees that Synovia is not responsible for any loss or damage due to changes to the cell carrier provider.

8. **INDEMNITY.** The Customer agrees to indemnify, defend and hold harmless Vendor and its agents, employees and assigns from any against any claim, loss, liability and expense, including reasonable attorney's fees, caused by the Equipment. The indemnities, assumptions of risk, liabilities and obligations of the Customer arising under this Agreement shall continue in effect after termination of this Agreement, regardless of the reason for termination.

9. **USE, MAINTENANCE, AND CARE OF EQUIPMENT.** The Customer shall be entitled to the absolute right to the use, operation, possession, and control of the Equipment during the term of this Agreement, provided Customer is not in default of any provision of this Agreement. The Customer shall assume all obligation and liability with respect to the possession of the Equipment, and for its use and operation during the rental term. Customer agrees to reimburse Vendor in full for all damage to the Equipment arising from any misuse or negligent act by Customer, its employees, or its agents. Except for the instance of misuse or negligence, Vendor assumes full responsibility for the performance of the hardware and software and any defective or non-functioning hardware (except wiring) will be replaced at no cost to the customer, provided the Customer is not in payment default.

10. **LOCATION OF EQUIPMENT.** The Customer will allow Vendor or its agents to inspect the Equipment at any reasonable time where it is located. If the Equipment is not being properly maintained in the sole opinion of Vendor, Vendor shall have the right, but not the obligation, to have it repaired or maintained at a service facility at the expense of Customer.

11. **ASSIGNMENT.** The customer has no right to sell, transfer, encumber, sublet, or assign the Equipment or this Agreement. Vendor may sell, transfer, or assign this Agreement without the Customer's consent. In the event of assignment by Vendor, assignee shall have all the rights, powers, privileges, and remedies of Vendor set forth in this Agreement, but none of the obligations (including but not limited to service or maintenance obligations). Customer agrees not to raise any claim or defense against Vendor or such assignee arising out of this Agreement as a defense, counterclaim or offset to any action by assignee for the unpaid balance of payments due or to become due under this Agreement or the possession of the Equipment. Vendor shall assign to Customer all manufacturers, Vendor or supplier warranties applicable to the Equipment to enable Customer to obtain any warranty service available for the Equipment. Vendor appoints Customer as Vendor's attorney-in-fact for the purpose of enforcing any warranty. Any enforcement by Customer shall be at the expense of Customer and shall in no way render Vendor responsible to Customer for the performance of any warranties. This Agreement and each of its provisions shall be binding on and shall insure to the benefit of the respective heirs, devisees, executors, administrators, trustees, successors and assigns of the parties to the Agreement.

12. **DEFAULT.** If the Customer does not pay any amount when due or perform any obligation required under this Agreement, the Customer will be in default. If the Customer defaults, Vendor can demand that the Customer pay the remaining balance of the Agreement and return the Equipment at the Customer's expense. At

Vendor's option, Vendor may repossess the Equipment. Customer waives any rights that Customer may have to notice before Vendor seizes any of the Equipment and waives any requirement that the Vendor post a bond in connection with such seizure or possession. In addition, if the Customer breaks any promise in this Agreement, Vendor can use any remedies available to Vendor under the Uniform Commercial Code or any other applicable law. The exercise of one remedy shall not be deemed to preclude the exercise of any other remedy. No failure or delay on the part of Vendor to exercise any remedy or right shall operate as a waiver. Acceptance by Vendor of rent or other payments made by Customer after default shall not be deemed a waiver of Vendor's rights and remedies arising from Customer's default. The Customer promises to pay reasonable attorney's fees and any costs associated with any legal action or action to repossess the Equipment or to enforce or interpret any provision in this Agreement. This action will not void the Customer's responsibility to maintain and care for the Equipment.

13. **CHOICE OF LAW, FORUM AND JURY WAIVER.** The Customer agrees that this Agreement will be governed by and construed in accordance with the laws of the state in which Vendor is headquartered or, if this Agreement has been assigned by Vendor, the state in which the assignee is headquartered. Vendor and Customer waive the right to a trial by jury in the event of a lawsuit. All judicial proceedings arising under this Agreement shall be adjudged by any court having jurisdiction over the Customer or the Customer's assets, all at the sole election of the Vendor or its assignee.

14. **RENEWAL.** After the initial term or any extension thereto, this Agreement shall automatically renew on a month to month basis unless the Customer notifies Vendor in writing by Certified Mail, UPS or Express Delivery directly to Vendor at the address on the front of this Agreement at least thirty (30) days prior to the expiration of the initial term or extension that the Customer does not choose to renew. No other manner of communication is acceptable. Upon the expiration date of this Agreement, Customer shall relinquish the Equipment to Vendor together with all accessories, free from damage and in the same condition and appearance as when received by Customer, allowing for ordinary wear and tear. The Customer agrees to pay removal charges. If Customer fails or refuses to relinquish the Equipment to Vendor, Vendor shall have the right to take possession of the Equipment and for that purpose to enter any premises where the Equipment is located without being liable in any suit, action, defense or other proceeding to Customer. The Customer must pay additional rental payments due until Vendor or its agents receive the Equipment.

15. **RIGHTS TO DATA.** Vendor retains the rights to anonymous summary data analysis and to share analysis with 3rd parties. Vendor will not identify the data source as being from the Customer nor portray the data in such a manner as to identify the Customer. Customer agrees that Vendor shall own all compilations or analysis of the data created by or for Vendor.

16. **OTHER RIGHTS.** The Customer agrees that Vendor's delay or failure to exercise any rights does not prevent Vendor from exercising them at a later time. If any part of this Agreement is found to be invalid, then it shall not invalidate any of the other parts, which shall remain valid and in full force and effect, and the Agreement shall be modified to minimum extent provided by law.

17. **ENTIRE AGREEMENT, AMENDMENT, SEVERABILITY.** This Agreement represents the Entire Agreement between Vendor and the Customer. Any amendment, waiver or charges will bind neither Vendor nor the Customer, unless agreed to in writing and signed by both parties. No agreement, representations or warranties, other than those specifically set forth in this Agreement shall be binding on any of the parties unless set forth in writing and signed by both parties.

18. **ACH/DIRECT DEBIT.** Customer agrees to enroll for automatic payment via credit card or direct debit ACH if payment is less than \$250 per month. Customer agrees to execute separate ACH/Direct Debit Form if this condition applies.

19. **MANNER OF EXECUTION.** Facsimile or electronic signatures shall be deemed fully enforceable valid signatures as if such signatures were originals as of the date executed.

Customer Initials _____

RESOLUTION NO.: 251 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION AMENDING RESOLUTION NO. 163-2014 OF JUNE 9, 2014
ESTABLISHING A STANDARD WORK DAY
FOR ELECTED AND APPOINTED OFFICIALS WHICH WILL BE REPORTED
TO THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM**

BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City of Newburgh hereby amends Resolution No. 163-2014 of June 9, 2014 and establishes the following as standard work days for elected and appointed officials and will report the following days worked on the attached Schedule A to the New York State and Local Employees' Retirement System based on the record of activities maintained and submitted by these officials to the clerk of this body.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

**Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7
ADOPTED**



Office of the New York State Comptroller
New York State and Local Retirement System
Employees' Retirement System
Police and Fire Retirement System
110 State Street, Albany, New York 12244-0001

Standard Work Day and Reporting Resolution for Elected and Appointed Officials

RS 2417-A
(Rev. 3/14)

BE IT RESOLVED, that the _____ (Name of Employer) / _____ (Location Code) hereby establishes the following standard work days for these titles and will report the officials to the New York State and Local Retirement System based on time keeping system records or their record of activities:

Title	Standard Work Day (Hrs/day) Min. 6 hrs Max. 8 hrs	Name (First and Last)	Social Security Number (Last 4 digits)	Registration Number	Tier 1 (Check only if member is in Tier 1)	Current Term Begin & End Dates (mm/dd/yy-mm/dd/yy)	Participates in Employer's Time Keeping System (Yes/No-If Yes, do not complete the last two columns)	Record of Activities Result*	Not Submitted (Check only if official did not submit their Record of Activities)
Elected Officials									
Mayor	7	Judy Kennedy		5057220-5		1/1/12 - 12/31/15	No	34.45	
Council Member	7	Cindy Holmes		420959-5		1/1/14 - 12/31/17	No	8.14	
Council Member	7	Karen Mejia		6054338-6		1/1/14 - 12/31/17	No	20.95	
Appointed Officials									
City Manager	7	Michael Claravino		6066375-4		1/1/12 - 12/31/15	Yes		
City Comptroller	7	John J. Aber		4351795-2		1/1/12 - 12/31/15	Yes		
Director Plan and Dev.	7	James Slaughter		5049289-1		1/1/12 - 12/31/15	Yes		

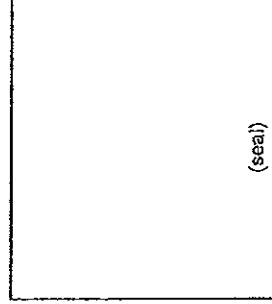
SEE INSTRUCTIONS FOR COMPLETING FORM ON REVERSE SIDE

I, _____ (Name of secretary or clerk), secretary/clerk of the governing board of the _____ (Name of Employer), of the State of New York, do hereby certify that I have compared the foregoing with the original resolution passed by such board at a legally convened meeting held on the _____ day of _____, 20____ on file as part of the minutes of such meeting, and that same is a true copy thereof and the whole of such original.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the _____ (Name of Employer) on this _____ day of _____, 20____ (Signature of the secretary or clerk)

Affidavit of Posting: I, _____ (Name of secretary or clerk), being duly sworn, deposes and says that the posting of the Resolution began on _____ (Date) and continued for at least 30 days. That the Resolution was available to the public on the _____

- ☐ Employer's website at _____
☐ Official sign board at _____
☐ Main entrance secretary or clerk's office at _____



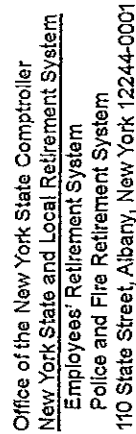
Instructions for completing the Standard Work Day and Reporting Resolution

A.	B.	C.	D.	E.	F.	G.	H.	I.	J.
Title	Standard Work Day (Hrs/day) Min. 6 hrs Max. 8 hrs	Name (First and Last)	Social Security Number (Last 4 digits)	Registration Number	Tier 1 (Check only if member is in Tier 1)	Current Term Begin & End Dates (mm/dd/yy-mm/dd/yy)	Participates in Employer's Time Keeping System (Yes/No-If Yes, do not complete the last two columns)	Record of Activities Result*	Not Submitted (Check only if official did not submit their Record of Activities)
Elected Officials									
Highway Superintendent	8.00	John Smith	0000	0101010-1		1/1/2010-12/31/2013	N	32.79	
Receiver of Taxes	6.00	Michelle Jones	1111	0202020-2	X	1/1/2010-12/31/2014	N	NA	
Town Justice	6.25	Michael Hall	2222	0303030-3		1/1/2010-12/31/2011	N		X
Appointed Officials									
Planning Board Member	7.00	Joseph Gray	3333	0404040-4		1/1/2010-12/31/2010	N	17.54	
Assessor	7.50	Ann Hughes	4444	0505050-5		1/1/2010-12/31/2010	Y		

- A. Title:** All paid elected and appointed officials (who are active members of the Retirement System) must be listed. For the purpose of the regulation, an "appointed official" is someone who is appointed by an elected official, an appointed official or governing board. They hold an office in an organization or government and participate in the exercise of authority. This also includes appointees of elected and appointed officials such as deputies, assistants or confidential secretaries.
- B. Standard Work Day:** The minimum number of hours that can be established for a standard work day (SWD) is six, while the maximum is eight. A SWD is the denominator to be used for the days worked calculation; it is not necessarily always the number of hours a person works. For example, if a board member only attends one three-hour board meeting per month, you must still establish a SWD between six and eight hours as the denominator for their record of activities (ROA) calculation.
- C. Name:** The official's complete first and last name must be included for identification purposes.
- D. Social Security Number:** The last four digits of the official's Social Security Number must be included for identification purposes. For security purposes, the last four digits of the Social Security Number can be omitted from the publicly posted version.
- E. Registration Number:** The official's Registration Number must be included for identification purposes. For security purposes, the Registration Number can be omitted from the publicly posted version.
- F. Tier 1:** If the official is a Tier 1 member, this box should be checked. Tier 1 members are not required to keep a ROA.
- G. Current Term Begin & End Dates:** All officials listed on the Resolution must have a specified Term End date. Leaving this column blank or listing 'Tenure/At Pleasure' is not acceptable. If the official does not have a designated term, the current term for the official who appointed them to the position should be used. If they are appointed by the governing board, the chairman of the board's term should be used.
- H. Participates in the Employer's Time Keeping System:** If the official is paid hourly or participates in the employer's time keeping system, Yes must be listed in this column. These officials are not required to keep a sample ROA and the Record of Activities Result column must be left blank. If the official is not paid hourly or does not participate in the employer's time keeping system, No must be listed in this column. Elected officials who are paid a salary and are not subject to an accrual system typically fall into this category. These officials are required to keep a sample three-month ROA, regardless of whether they are being reported by another employer for the same period, and the Record of Activities Result column must list the average number of days worked per month as calculated using the sample three-month ROA.
- I. Record of Activities Result*:** This column should only be completed for officials who are not paid hourly or do not participate in the employer's time keeping system and are required to keep a sample three-month ROA. This column must be left blank if an official does not submit their required sample three-month ROA. To determine the average number of days worked per month, you must divide the total number of hours documented on the three-month ROA by three months to get a one-month average number of hours worked. Then, the one-month average number of hours worked must be divided by the SWD to get the average number of days worked per month.
- J. Not Submitted:** This column must be checked if an official does not participate in the time keeping system and has not submitted the required sample three-month ROA within the 150 day requirement, regardless of whether they are being reported by another employer for the same period. If the Retirement System receives such a Resolution, it will contact the official to notify them of the consequences of not submitting the ROA.

Once passed, the Resolution must be posted on your public website for a minimum of 30 days or, if a website isn't available to the public, on the official sign-board or at the main entrance to the clerk's office. A certified copy of the Resolution and Affidavit of Posting must be filed with the Office of the State Comptroller within 45 days of the adoption. The Resolution and Affidavit can be submitted online via the Elected and Appointed Officials Reporting (EAOR) program.

*To determine the number of days worked to include on the monthly report for the various payroll frequencies, please refer to the Calculating Days Worked instructions available in the 'Reporting Elected & Appointed Officials' section of our website: http://www.osc.state.ny.us/retire/employers/elected_appointed_officials/index.php



**Standard Work Day and Reporting Resolution
for Elected and Appointed Officials Continuation Form
RS 2417-B**

(Rev. 3/14)

Employer _____ Location Code _____ Page _____ of _____ (use with form RS 2417-A)

RESOLUTION NO.: 252 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION SCHEDULING A PUBLIC HEARING FOR NOVEMBER 10, 2014
TO RECEIVE COMMENTS CONCERNING THE ADOPTION OF THE
2015 BUDGET FOR THE CITY OF NEWBURGH**

BE IT RESOLVED, by the Council of the City of Newburgh, New York that pursuant to Charter Section C8.15 a public hearing will be held to receive comments concerning the adoption of the 2015 Budget for the City of Newburgh; and that such public hearing be and hereby is duly set for a City Council meeting of the Council to be held at 7:00 p.m. on the 10th day of November, 2014, in the Third Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

Councilwoman Angelo moved and Councilwoman Abrams seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 253 - 2014

OF

OCTOBER 14, 2014

**RESOLUTION SCHEDULING A PUBLIC HEARING
FOR OCTOBER 27, 2014 TO HEAR PUBLIC COMMENT
REGARDING THE CITY OF NEWBURGH'S FIVE YEAR CONSOLIDATED
HOUSING AND COMMUNITY DEVELOPMENT STRATEGY
AND ACTION PLAN FOR FISCAL YEAR 2015**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments regarding the City of Newburgh's Consolidated Housing and Community Development Strategy and Action Plan for fiscal year 2015; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 27th day of October, 2014, in the third floor Council Chambers located at 83 Broadway, City Hall, Newburgh, New York.

Councilwoman Abrams moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 254 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO APPLY FOR AND ACCEPT IF AWARDED A
GRANT FROM THE ORANGE COUNTY OFFICE OF COMMUNITY
DEVELOPMENT UNDER THE ORANGE COUNTY COMMUNITY DEVELOPMENT
BLOCK GRANT DISASTER RECOVERY (CDBG-DR) PROGRAM IN
THE AMOUNT OF \$500,000.00 WITH NO CITY MATCH REQUIRED TO PROVIDE
FUNDING FOR THE COMBINED SEWER OVERFLOW REGULATOR NUMBER
TWO UPGRADES PROJECT**

WHEREAS, the Combined Sewer Overflow ("CSO") Regulator Number 2 is located approximately 800 feet east of the Mill Street Bridge, along the north side of the Quassaick Creek; and

WHEREAS, the function of CSO Regulator Number 2 is to direct dry weather sanitary sewer flows to the Waste Water Treatment Plant through the South Interceptor, and to direct combined sewer flows to Outfall Number 2 at the mouth of the Quassaick Creek during wet weather events; and

WHEREAS, during periods of heavy rainfall the West Trunk Sewer Line experiences surcharging and typically overflows combined sewer through a displaced manhole structure overland to the Quassaick Creek, which is a direct result of hydraulic deficiencies within CSO Regulator Number 2; and

WHEREAS, CSO Regulator Number 2 receives flow from the largest drainage area in the sewer system, including portions of the Town of Newburgh, and is the only control device on the South Interceptor and West Trunk Sewer Lines; and

WHEREAS, as part of the Long Term Control Plan the City's collection system was modeled to determine capacity, which showed a restriction in CSO Regulator Number 2 that causes flow to back-up and surcharge during periods of increased combined sewer overflow; and

WHEREAS, the West Trunk Sewer was significantly undermined due to the increased stream velocities within the Quassaick Creek during both Hurricane Irene and Tropical Storm Lee; and

WHEREAS, the City will design and construct modifications to be made to the configuration of the regulator to improve the hydraulics and relieve upstream surcharge conditions

by eliminating the bottleneck during wet weather flows eliminating risk during future extreme weather events which result in catastrophic sanitary sewer failures; and

WHEREAS, the Orange County Office of Community Development has funding available under the Orange County Community Development Block Grant Disaster Recovery (CDBG-DR) Program to provide for the CSO Regulator Number 2 Upgrades Project; and

WHEREAS, such grant funding requires no City match; and

WHEREAS, this Council has determined that applying for such grant funding, and accepting if awarded, is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager of the City of Newburgh be and is hereby authorized to submit the Municipal Grant Eligibility Form for consideration under the Orange County Community Development (CDBG-DR) Disaster Recovery Program and that the City Manager be and he is hereby authorized to accept if awarded a grant from the Orange County Office of Community Development in the amount of \$500,000.00, with no City match required, to provide funding for the Combined Sewer Overflow Regulator Two Upgrades Project; and to execute all necessary documents to receive and comply with the terms of such grant.

Councilwoman Angelo moved and Councilwoman Abrams seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 255 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO APPLY FOR AND ACCEPT IF AWARDED A
GRANT FROM THE ORANGE COUNTY OFFICE OF COMMUNITY
DEVELOPMENT UNDER THE ORANGE COUNTY COMMUNITY DEVELOPMENT
BLOCK GRANT DISASTER RECOVERY (CDBG-DR) PROGRAM IN THE AMOUNT
OF \$300,000.00 WITH NO CITY MATCH REQUIRED TO PROVIDE FUNDING FOR
THE MILL STREET BRIDGE PIER 5 FOOTING STABILIZATION PROJECT**

WHEREAS, the Mill Street Bridge ("Bridge") is a six (6) span stone masonry arch bridge which was constructed in 1883 and carries Mill Street over both the CSX railroad right-of-way to the north, and the Quassaick Creek to the south; and

WHEREAS, increased stream flows within the Quassaick caused by Hurricane Irene and Tropical Storm Lee have contributed to the scouring of the footing supporting Pier 5 of the Bridge; and

WHEREAS, this partially unsupported footing has been red flagged by the New York State Department of Transportation; and

WHEREAS, if the Pier 5 footing is not repaired timely, the City of Newburgh may be forced to close the Bridge and may ultimately lose this historic structure to structural failure; and

WHEREAS, the City of Newburgh is responsible for the repair and maintenance of this section of the Bridge and does not currently have the funding to repair the damages; and

WHEREAS, the Orange County Office of Community Development has funding available under the Orange County Community Development Block Grant Disaster Recovery (CDBG-DR) Program; and

WHEREAS, such grant funding requires no City match; and

WHEREAS, this Council has determined that applying for such grant funding, and accepting if awarded, is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager of the City of Newburgh be and is hereby authorized to submit the Municipal Grant Eligibility Form for consideration under the Orange County Community Development (CDBG-DR) Disaster Recovery Program and that the City Manager be and he is hereby authorized to accept if awarded a grant from the Orange County Office of Community Development in the amount of \$300,000.00, with no City match required, to provide funding for the Mill Street Bridge Pier 5 Footing Stabilization Project; and to execute all necessary documents to receive and comply with the terms of such grant.

Councilwoman Lee moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 256 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO APPLY FOR AND ACCEPT IF AWARDED A
GRANT FROM THE ORANGE COUNTY OFFICE OF COMMUNITY
DEVELOPMENT UNDER THE ORANGE COUNTY COMMUNITY DEVELOPMENT
BLOCK GRANT DISASTER RECOVERY (CDBG-DR) PROGRAM IN THE AMOUNT
OF \$112,500.00 WITH NO CITY MATCH REQUIRED TO PROVIDE FUNDING FOR
A COLLECTION SYSTEM VULNERABILITY ASSESSMENT**

WHEREAS, the County of Orange is currently seeking to undertake development of a regional Hazard Mitigation Plan, which requires specific information to address vulnerabilities in a municipality's combined sewer infrastructure; and

WHEREAS, failure due to age and condition, as well as the impacts of Hurricane Irene and Tropical Storm Lee have uncovered a number of vulnerabilities associated with the City's sanitary sewer infrastructure; and

WHEREAS, the City of Newburgh wishes to undertake a Vulnerability Assessment which will assist with identifying system wide vulnerabilities, and will develop appropriate mitigation activities to limit both the frequency and duration of future combined sewer overflow events, as well as identifying vulnerabilities in sewer collection systems to prevent future sanitary sewer overflows and collapses during similar events; and

WHEREAS, the Orange County Office of Community Development has funding available under the Orange County Community Development Block Grant Disaster Recovery (CDBG-DR) Program to provide for such Vulnerability Assessment; and

WHEREAS, such grant funding requires no City match; and

WHEREAS, this Council has determined that applying for such grant funding, and accepting if awarded, is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager of the City of Newburgh be and is hereby authorized to submit the Municipal Grant Eligibility Form for consideration under the Orange County Community Development (CDBG-DR) Disaster Recovery Program and that the City Manager be and he is

hereby authorized to accept if awarded a grant from the Orange County Office of Community Development in the amount of \$112,500.00, with no City match required, to provide funding for a Collection System Vulnerability Assessment; and to execute all necessary documents to receive and comply with the terms of such grant.

Councilwoman Lee moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED



City of Newburgh
DEPARTMENT OF PLANNING & DEVELOPMENT
City Hall – 83 Broadway
Newburgh, New York 12550

TEL: (845) 569-9400

FAX: (845) 569-9700

October 3, 2014

To: Honorable City Council Members

From: Courtney Kain, Director Community Development

Cc: Michael Ciaravino, City Manager
Jason Morris, City Engineer
Michelle Kelson, Corporation Counsel
John Aber, Comptroller
James Slaughter, Director Planning & Development

Orange County has received federal disaster recovery funds through HUD and have asked the City of Newburgh to submit applications for funding consideration. It is important to note that these three applications are tied directly to damage sourced to Hurricane Irene and Tropical Storm Lee. There is no required local match for this program.

Below are project descriptions for the three projects Engineering has identified fit the program.

Mill St. Bridge Pier 5 Footing Stabilization

\$300,000

The Mill Street Bridge is a 6 span stone masonry arch bridge constructed in 1883. This bridge carries Mill Street over both the CSX railroad right of way to the north and the Quassaick Creek to the south. The bridge was constructed originally to allow flows within the Quassaick Creek to pass between the stone arches bound by Pier 3 & Pier 4 to the south, and Pier 4 & Pier 5 to the north. Industrial Development along the Quassaick Creek during the early to mid-1900's has placed significant amounts of fill along the south bank of the Quassaick Creek. This placement of fill effectively blocked flows from passing through the stone arch to the south. Today, all flows within the Quassaick Creek are directed through the stone arch bound by Pier 4 to the south and Pier 5 to the north. Increased stream flows within the Quassaick Creek caused by Hurricane Irene and Tropical Storm Lee, have contributed to scouring of the footing supporting Pier 5 of the Mill St. Bridge. This partially unsupported footing has been red flagged by the NYSDOT during their regular inspection of the bridge. If the footing is not repaired in the future, the City may be forced to close the bridge and the community may lose this historic structure.

CSO regulator No. 2 Upgrades**\$500,000**

The CSO Regulator No. 2 Upgrades project is located in the City of Newburgh in Orange County. Regulator No. 2 is located approximately 800-feet east of the Mill Street Bridge, along the north side of the Quassaick Creek in a wooded area with limited access. The function of sewer Regulator No. 2 is to direct dry weather sanitary sewer flows to the Waste Water Treatment Plant through the South Interceptor, and to direct combined sewer flows to Outfall #2 at the mouth of the Quassaick Creek during wet weather events. During periods of heavy rainfall, the West Trunk Sewer Line experiences surcharging and typically overflows combined sewer through a displaced manhole structure overland to the Quassaick Creek. This surcharging and overflow is a direct result of hydraulic deficiencies within sewer Regulator No. 2. Regulator No. 2 receives flow from the largest drainage area in the sewer system, including portions of the Town of Newburgh, and is the only control device on the south interceptor and West Trunk sewer lines.

As a part of the City of Newburgh's Long Term Control Plan, the City's collection system was modeled to determine capacity. The model showed that there is a restriction in Regulator No. 2 that causes flow to back-up and surcharge during periods of increased combined sewer flow.

The City will design and construct modifications to be made to the configuration of the regulator to improve the hydraulics and relieve upstream surcharge conditions by eliminating the bottleneck during wet weather flows. This will eliminate risk during future extreme weather events which result in catastrophic sanitary sewer failures.

Hazard Vulnerabilities Assessment**\$112,500**

The County of Orange is currently seeking to undertake development of a regional Hazard Mitigation Plan. Current planning practice requires specific information to be included in regional hazard mitigation plan which address vulnerabilities in a municipality's combined sewer infrastructure. The vulnerability assessment will address the City of Newburgh's combined sewer collection systems, and will identify critical vulnerabilities, and will make mitigation recommendations to provide the City with a strategy to prioritize and evaluate infrastructure deficiencies. The following hazards will be addressed: Failure due to age and condition, severe storm, hurricanes, flooding, earthquake and ice storm damage.

RESOLUTION NO.: 257 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
AN AMENDMENT TO THE STREET LIGHTING AUTHORITY ORDER
WITH CH ENERGY GROUP, INC.**

WHEREAS, it has become necessary to amend the Street Lighting Authority Order entered into with Central Hudson Gas & Electric Corporation n/k/a CH Energy Group, Inc., providing for the replacement of one HPS5800 lamp on poles numbered 324 and 4397 with the installation of one HPS16000 lamp on poles numbered 324 and 4397 located on Gidney Avenue; and

WHEREAS, there will be an increase in cost to the City of Newburgh from \$12.43 to \$13.82 per lamp per monthly period for this change;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the attached amendment to the Street Lighting Authority Order.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

CENTRAL HUDSON GAS & ELECTRIC CORPORATION
610 LITTLE BRITAIN ROAD
NEW WINDSOR, NY 12553-6114
(845) 452-2700

STREET LIGHTING AUTHORITY ORDER

PAGE 1

CITY OF NEWBURGH
83 BROADWAY
NEWBURGH NY 12550

ORDER NO.: H8-03305
ACCOUNT NO.: 8411-2080-00
DATE: 09/24/14

TO CENTRAL HUDSON GAS & ELECTRIC CORPORATION:

YOU ARE HEREBY AUTHORIZED TO MAKE CHANGES SPECIFIED BELOW TO THE STREET LIGHTING SERVICE FOR THE CITY LGTG _____, IN ACCORDANCE WITH A RESOLUTION DULY ADOPTED AS PROVIDED BY LAW BY THE _____ (COUNCIL/BOARD OF THE _____ OF _____ AT A MEETING HELD ON _____, 20__ AS FOLLOW

ACTION:

OR REMOVE	TYP & SIZE OF LAMP	POLE NO	RATE **	MAP & GRID	LOCATION	DATE COMPLETE	ADJ AMT
REMOVE	HPS 5800	324	A	151-01	GIDNEY AVE		12.43CR
INSTALL	HPS 16000	324	A	151-01	GIDNEY AVE		13.82
REMOVE	HPS 5800	4397	A	151-01	GIDNEY AVE		12.43CR
INSTALL	HPS 16000	4397	A	151-01	GIDNEY AVE		13.82

UPGRADE 70WATT HPS WITH 150HPS PER CITY

- ** A. COMPANY OWNED AND MAINTAINED; ANNUAL OR SEASONAL SERVICE
- ** B. CUSTOMER OWNED/COMPANY MAINTAINED
- ** C. CUSTOMER OWNED/CUSTOMER MAINTAINED

THESE CHANGES ARE SUBJECT TO THE TERMS OF THE EXISTING STREET LIGHTING SERVICE CLASSIFICATIONS. DOES NOT INCLUDE THE COST OF ELECTRICITY.

MUNICIPALITY _____ BY _____
_____, 20__ TITLE _____

W.O.NO. 6686A/R DATE WORK COMPLETED _____ BY _____

RESOLUTION NO.: 258 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION AMENDING THE 2014 PERSONNEL ANALYSIS BOOK
TO ADD ONE TEMPORARY PART-TIME RECORDS MANAGEMENT POSITION**

WHEREAS, due to retirement, it has become necessary to create one temporary part-time Records Management position until a full-time permanent replacement is hired; and

WHEREAS, the creation of the temporary part-time Records Management position will be on a temporary basis for an amount not to exceed Five Thousand (\$5,000.00) Dollars; and

WHEREAS, this Council has determined that the creation of such position is in the best interests of the operations of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the 2014 Personnel Analysis Book be and hereby is amended to create one temporary part-time Records Management position.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 259 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION OF CONTINUING SUPPORT OF THE 5 SCOBIE DRIVE
INDUSTRIAL PARK PROJECT**

WHEREAS, by Resolution No. 143-2012 of August 13, 2012, Resolution No. 234-2012 of December 10, 2012 and Resolution No. 19-2013 of January 28, 2013, the City Council of the City of Newburgh memorialized its support of the proposal submitted by the City of Newburgh Industrial Development Agency ("the IDA") for the relocation and expansion of Hudson Valley Lighting to 5 Scobie Drive, including authorizing the City Manager to negotiate and execute on behalf of the City of Newburgh a land transfer agreement; and

WHEREAS, by Resolution No.: 160-2013 of August 1, 2013, the City of Newburgh authorized the Interim City Manager to apply for and accept if awarded a grant in support of the development of 5 Scobie Drive in the Consolidated Funding Application process; and

WHEREAS, the 5 Scobie Drive Project was designated as a Priority Project by the Hudson Valley Regional Economic Development Council and the 5 Scobie Drive Industrial Park Infrastructure Improvements Project received an award of \$250,000.00 in the 2013 Consolidated Funding Application cycle; and

WHEREAS, by Resolution No. 51-2014 of March 10, 2014 the City Council of the City of Newburgh, New York authorized the Interim City Manager to apply for and accept if awarded a FY2104 Economic Development Assistance Grant from the U.S. Department of Commerce Economic Development Administration in support of the 5 Scobie Drive Industrial Park Improvements Project and the City of Newburgh and the City of Newburgh Industrial Development Agency were awarded said EDA grant in the amount of \$4,200,000.00; and

WHEREAS, the Project involves a public/private infrastructure partnership between an existing business, Hudson Valley Lighting d/b/a Scobie Partners, the City of Newburgh and the City of Newburgh Industrial Development Agency and requires the remediation of a former landfill for which Scobie Partners has entered into a Brownfields Clean Up Program Agreement with the NYS Department of Environmental Conservation to investigate and remediate the site; and

WHEREAS, the successful completion of the Project will provide for the relocation and expansion of Scobie Partners successful existing Hudson Valley Lighting business and help create a "shovel ready" business park with newly installed publicly operated infrastructure, which will retain hundreds of jobs within New York State and create up to 50 new jobs of the kind that City of Newburgh residents need and are qualified for and will foster and support advanced

manufacturing, retain and support mature industry/distribution facilities, improve regional infrastructure/construction jobs, support our urban center, and leverage public-private resources;

NOW, THEREFORE, BE IT RESOLVED, that this City Council of the City of Newburgh, New York does hereby express its continued support for the 5 Scobie Drive Industrial Park Project and its potential benefits being in the best interests of the City of Newburgh and its further development; and

BE IT FURTHER RESOLVED, by this City Council that it will continue to support the 5 Scobie Drive Industrial Park Improvements Project through a General Fund Budget allocation of \$187,500.00 in FY 2015 and FY 2016 and a waiver of administrative fees for the 5 Scobie Drive Industrial Park Improvements Project; and

BE IT FURTHER RESOLVED, by this Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to negotiate on behalf of the City of Newburgh a cooperation agreement with 5 Scobie Partners and that such cooperation agreement shall be brought back to this Council for its further consideration.

Councilwoman Lee moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 260 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A PAYMENT OF CLAIM
WITH NEW YORK CENTRAL MUTUAL FIRE INSURANCE COMPANY a/s/o
MICHAEL J. AND ANNA T. BENSON AND JESSICA BENSON
IN THE AMOUNT OF \$2,586.95**

WHEREAS, New York Central Mutual Fire Insurance Company a/s/o Michael J. and Anna T. Benson and Jessica Benson brought a claim against the City of Newburgh; and

WHEREAS, the parties have reached an agreement for the payment of the claim in the amount of Two Thousand Five Hundred Eighty-Six and 95/100 Dollars (\$2,586.95) in exchange for a release to resolve all claims among them; and

WHEREAS, this Council has determined it to be in the best interests of the City of Newburgh to settle the matter for the amount agreed to by the parties;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to settle the claim of New York Central Mutual Fire Insurance Company a/s/o Michael J. and Anna T. Benson and Jessica Benson in the total amount of Two Thousand Five Hundred Eighty-Six and 95/100 Dollars (\$2,586.95) and that the City Manager be and he hereby is authorized to execute documents as the Corporation Counsel may require to effectuate the settlement as herein described.

Councilwoman Abrams moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 261 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
A LICENSE AGREEMENT WITH THE YOUTH EMPOWERMENT CENTER FOR
THE FIRST FLOOR OF 104 SOUTH LANDER STREET FOR A TERM OF ONE YEAR**

WHEREAS, the Youth Empowerment Center (YEC) has expressed an interest in using the first floor of the building located at 104 South Lander Street to establish a location for providing youth programs and services; and

WHEREAS, allowing the YEC to use the first floor of the building located at 104 South Lander street will require a license agreement which the term of said license shall be one year, a copy of which is annexed hereto and made a part of this resolution; and

WHEREAS, this Council has reviewed such license agreement and finds that entering into the same would be in the best interests of the City of Newburgh and the community alike;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the attached license agreement with the Youth Empowerment Center for the use of the first floor of 104 South Lander Street in substantially the same form and on the terms and conditions contained in the attached license agreement, including such other terms and conditions as may be deemed appropriate and necessary by the Interim City Manager and /or the Corporation Counsel in order to carry-out the subject transaction.

Councilwoman Lee moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

LICENSE AGREEMENT

This Agreement made this _____ day of _____ 2014, between the CITY OF NEWBURGH, a municipal corporation having its principal offices at City Hall, 83 Broadway, Newburgh, NY 12550 (hereinafter referred to as "LICENSOR" or "CITY) and YOUTH EMPOWERMENT CENTER, a domestic corporation organized and existing under the Not-For-Profit Corporation Law of the State of New York, having an address of P.O. Box 1755, Newburgh, New York 12550 (herein referred to as "LICENSEE" or "YEC").

WITNESSETH:

WHEREAS, LICENSOR owns property located at 104 South Lander Street, Newburgh, New York, hereinafter referred to as the "PREMISES"; and

WHEREAS, LICENSEE desires the license or privilege of gaining access to the Premises for the purpose of providing youth programs and services; and

WHEREAS, LICENSOR is willing to give said license or privilege on the following terms and conditions:

NOW THEREFORE, in pursuance of said agreement and in consideration of ONE AND NO/100 (\$1.00) DOLLAR paid by LICENSEE to LICENSOR, receipt of which is hereby acknowledged and of the mutual covenant, agreements, conditions, and stipulations herein contained, it is mutually covenanted, stipulated and agreed by and between the parties hereto as follows:

1. PREMISES:

LICENSOR does hereby grant unto LICENSEE use and occupancy of the Premises for the purpose of providing youth programs and services according to the terms and conditions as hereinafter provided.

2. TERM:

The license granted hereunder shall be for a term of one (1) year, commencing upon the date this Agreement is properly executed by both parties, unless earlier terminated by either or both parties as provided herein.

3. CONSIDERATION:

The consideration shall be ONE AND NO/100 (\$1.00) DOLLAR payable by LICENSEE to LICENSOR upon execution of this License Agreement, and all such other covenants, promises and understandings provided herein.

4. USE AND OCCUPANCY:

- A. LICENSEE shall use and occupy the Premises in a careful, safe and proper manner, and shall not occupy or use said premises or permit the same to be occupied or used for any purpose or business which is unlawful and shall comply with all lawful requirements of all current laws, ordinances, rules and regulations of all governmental authorities pertaining to the use and occupancy of the Premises and according to the following conditions:
- i. Licensee's access to the Premises shall be Thursday, Friday and Saturday each week from 1:00 pm until 1:00 am.
 - ii. Licensee may provide youth programs on Thursday, Friday and Saturday each week from 3:00 pm to 12:00 am. However, no program for teenage youth may begin before 5:00 pm on Thursday and Friday.
 - iii. Licensee shall provide its own security.
- B. LICENSOR shall notify LICENSEE when other organizations are scheduled for the approved use of the PREMISES.

5. REPRESENTATIONS OF LICENSEE:

LICENSEE represents and warrants:

- A. That it is duly organized and existing under the laws of New York State;
- B. That it is financially solvent;
- C. That it is experienced and competent to perform the type of work and to provide the programs and services to be furnished by it;
- D. That it is familiar and in compliance with all federal, state, municipal and department laws, ordinances and regulations that apply to the work or programs or services or to those employed or engaged therein;
- E. That all of its employees have been screened and subject to the same pre-employment practices to which the City subjects its own employees; and
- F. That it has procured and paid for all permits and licenses necessary for the work, programs and services to be rendered hereunder.

6. INSURANCE:

A. LICENSEE shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the CITY who have been fully informed as to the nature of the programs provided or services to be performed. Except

for Workers' Compensation and professional liability, the CITY shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of LICENSEE and not those of the CITY. Notwithstanding anything to the contrary in this Agreement, LICENSEE irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article. The provisions of insurance by LICENSEE shall not in any way limit LICENSEE'S liability under this Agreement.

B. LICENSEE shall not occupy the Premises or commence work or programs or provide services under this Agreement until it has obtained the following insurance required under this article and such insurance has been approved by the City:

1. Worker's Compensation - Statutory
2. General Liability and Property Damage Insurance - LICENSEE shall take out and maintain during the life of this agreement such general liability and property damage insurance as shall protect it from claims for damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this agreement. The amounts of such insurance shall be as follows:
 - a. General Liability Insurance in an amount not less than \$1,000,000.00 for injuries including wrongful death to any one person and subject to the same limit for each person, in an amount not less than \$3,000,000.00 on account of any one occurrence.
 - b. Property Damage Insurance in an amount not less than \$500,000.00 for damage on account of all occurrences.

The Licensee shall furnish the above insurance to the City and shall also name the City as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this contract.

C. Any accident shall be reported to the Office of the City Manager as soon as possible and not later than twenty-four hours from the time of such accident. A detailed written report must be submitted to the City as soon thereafter as possible and not later than three (3) days after the date of such accident.

7. INDEMNITY AND SAVE HARMLESS AGREEMENT:

- A. It is hereby mutually covenanted and agreed that the relation of the LICENSEE to the work to be performed by it under this Agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances, whether or not the LICENSEE, its agents or employees have been negligent. The LICENSEE shall hold and keep the CITY free and discharged of and from any and all responsibility and liability of any sort or kind. The LICENSEE shall assume all responsibility for risks or casualties of every description, for loss, death or injury to persons or property arising out of the nature of the performance, other than those

wholly caused by Acts of God or conditions pre-existing this license. The LICENSEE shall make good any damages that may occur in consequence of the performances or any part of it. The LICENSEE shall assume all blame, loss and responsibility of any nature by reason of the LICENSEE'S neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance.

- B. The LICENSEE agrees to indemnify and save the City, its officers, agents and employees harmless from any liability imposed upon the City, its officers, agents and/or employees arising from the negligence, active or passive, of the Licensee.
- C. It is understood and agreed between the parties that the LICENSEE shall have no right to control the actions of City employees nor any duty to supervise the actions of CITY employees.

8. IMPROVEMENT AND MAINTENANCE:

- A. LICENSOR shall maintain the Premises in good repair and conditions, supply utilities including heat, air conditioning, light, ventilation, sanitation, trash removal during the term of this Agreement.
- B. LICENSOR shall not install any equipment or replace any locks and shall not make any alternations to the Premises without the express written permission of the City Manager of the City of Newburgh.
- C. LICENSOR shall provide LICENSEE with two (2) keys to the front door of the PREMISES and a code to the security alarm; and shall permit LICENSEE to store items and supplies in the rear closet.
- D. LICENSEE shall maintain the Premises in a clean and orderly condition; shall provide their own clean up service; surrender the Premises in the same state and condition as it was at the commencement of LICENSEE's use and occupancy.

9. LICENSOR'S RIGHT TO TERMINATE AGREEMENT:

LICENSOR shall have the right to terminate this Agreement under the following conditions:

- a. LICENSEE fails or refused to perform any of its obligations under this Agreement; or
- b. LICENSEE fails to comply with all applicable laws, regulations or ordinances; or
- c. LICENSEE commits a substantial violation of any provision of this Agreement.

LICENSOR, at its sole discretion, and, with or without cause, may without prejudice to any other remedy it may have by seven (7) days written notice to the LICENSEE terminate the Agreement.

10. ADDRESSEES FOR PURPOSES OF NOTICE:

All notices, requests, demands, approvals or other communications given hereunder or in connection with this Agreement shall be in writing and shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, addressed as follows:

If to City: City of Newburgh
 83 Broadway
 Newburgh, NY 12550
 Attn: City Manager

With copies to: City of Newburgh
 83 Broadway
 Newburgh, NY 12550
 Attn: Corporation Counsel

If to YEC: Youth Empowerment Center
 P.O. Box 1755
 Newburgh, NY 12550
 Attn: Deronica Austin

With copies to:

Attn:

11. ENFORCEABILITY:

Should any provision of this Agreement be deemed unenforceable for any reason, the remainder of this Agreement shall continue in effect so long as the purpose of this Agreement is not nullified by the absence of such provision.

12. NON-ASSIGNMENT:

LICENSEE shall not have the right to assign this Agreement without prior written approval of LICENSOR.

13. INVALIDITY OF PROVISIONS:

If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons whose circumstances are other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

14. HEADINGS:

It is understood and agreed that the headings are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of this Agreement, or in any way affect this Agreement.

15. ENTIRE AGREEMENT:

This Agreement contains the entire agreement between the parties and any agreement hereafter made shall be ineffective to change, modify or discharge it in whole or part unless such agreement is in writing and signed by both parties.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have signed this Agreement below.

(date)

CITY OF NEWBURGH, LICENSOR

By: _____
Michael G. Ciaravino
City Manager
Per Resolution No.

(date)

LICENSEE

By: _____

RESOLUTION NO.: 262 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION REAPPOINTING PATRICIA SOFOKLES
TO THE BOARD OF ASSESSMENT REVIEW**

WHEREAS, it is necessary to appoint members to vacancies on the Board of Assessment Review; and

WHEREAS, each member of such Board serves a five-year term; and

WHEREAS, it is necessary to re-appoint one member whose term of office expired and who is willing to serve a new term;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the following individual be and is hereby appointed to the Board of Assessment Review for the term indicated:

Patricia Sofokles, to serve a new five-year term commencing retroactively on October 1, 2014 and expiring on September 30, 2018.

Councilwoman Lee moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes – Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 6

Nays – Councilwoman Abrams - 1

ADOPTED

RESOLUTION NO.: 263 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION APPOINTING KAREN EBERLE-MCCARTHY
TO THE CONSERVATION ADVISORY COUNCIL**

WHEREAS, there currently exists a vacancy on the Conservation Advisory Council to replace a member whose term was to expire on November 30, 2015;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the following individual be and is hereby appointed to the Conservation Advisory Council for the term indicated:

Karen Eberle-McCarthy, to complete the term of a former member whose term expires on November 30, 2015; and

BE IT FURTHER RESOLVED, that this appointment shall take effect immediately.

Councilwoman Abrams moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 264 – 2014

OF

OCTOBER 14, 2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH, NEW YORK CALLING ON ORANGE COUNTY TO KEEP THE DEPARTMENT OF MOTOR VEHICLE OFFICE IN THE CITY OF NEWBURGH

WHEREAS, Orange County maintains a local office of the Department of Motor Vehicles (“DMV”) in the City of Newburgh; and

WHEREAS, many residents of the counties of Rockland, Dutchess, Ulster and Sullivan as well as Orange County rely on the convenience and service offered by having a DMV office located in the City of Newburgh; and

WHEREAS, our DMV office on Broadway is an important economic engine for Newburgh, drawing people who avail themselves of our shops, restaurants, convenience stores, tourist attractions and services, so that the closing of the Newburgh DMV would deal a major economic blow to the City of Newburgh; and

WHEREAS, Orange County has proposed closing the City of Newburgh DMV office and consolidating services in the City of Middletown; and

WHEREAS, many current users of the Newburgh DMV have stated publicly that if the Newburgh DMV closed, they would use the DMV in Beacon rather than the one in Middletown, which would benefit Dutchess County instead of Orange County; and

WHEREAS, this Council finds that having the DMV office in the City of Newburgh is a necessity for the residents of the City of Newburgh and eastern Orange County who rely on the convenience of the proximity of the City of Newburgh DMV office to their homes and places of employment without the expense of traveling to the City of Middletown or outside Orange County to obtain services and complete their business transaction;

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Newburgh is committed to retaining a DMV office in the City of Newburgh for the convenience of not only its own residents but also the residents of surrounding counties who frequently use its services; and

BE IT FURTHER RESOLVED, that the City Council of the City of Newburgh urges all members of the Orange County Legislature to do all in their power to keep the Newburgh DMV open for the convenience of residents of Orange County and for the economic benefit of Orange County and the City of Newburgh.

Councilwoman Abrams moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

RESOLUTION NO.: 265 - 2014

OF

OCTOBER 14, 2014

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
A LICENSE AGREEMENT WITH DYNAMIC APPROACH MARCHING BAND
FOR USE OF THE PARKING LOT LOCATED IN
THE DELANO-HITCH RECREATION PARK**

WHEREAS, the City of Newburgh has expressed an interest in continuing to support the Dynamic Approach Marching Band (the DAMB); and

WHEREAS, the City has agreed to loan instruments to the DAMB and provide rehearsal space in the parking lot located in the Delano-Hitch Recreation Park, which use will require a license agreement which the term of said license shall be one year, a copy of which is annexed hereto and made a part of this resolution; and

WHEREAS, this Council has reviewed such license agreement and finds that entering into the same would be in the best interests of the City of Newburgh and the community alike;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the attached license agreement with Dynamic Approach Marching Band for the use of the parking lot located within the Delano-Hitch Recreation Park and to loan instruments to the Dynamic Approach Marching Band in substantially the same form and on the terms and conditions contained in the attached license agreement, including such other terms and conditions as may be deemed appropriate and necessary by the City Manager and /or the Corporation Counsel in order to carry-out the subject transaction.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 7

ADOPTED

LICENSE AGREEMENT

This Agreement made this _____ day of _____ 2014, between the CITY OF NEWBURGH, a municipal corporation having its principal offices at City Hall, 83 Broadway, Newburgh, NY 12550 (hereinafter referred to as "LICENSOR" or "CITY) and DYNAMIC APPROACH MARCHING BAND, a not-for-profit association organized and existing under the laws of the State of New York, having its principal place of business at _____, Newburgh NY 12550 (herein referred to as "LICENSEE").

WITNESSETH:

WHEREAS, LICENSOR owns property known as the Delano-Hitch Recreation Park, located at 401 Washington Street, Newburgh, New York, hereinafter referred to as the "PREMISES"; and

WHEREAS, LICENSEE desires the license or privilege of use of the parking lot of the Premises for the purpose of rehearsals of the Dynamic Approach Marching Band; and

WHEREAS, LICENSOR is willing to give said license or privilege on the following terms and conditions:

NOW THEREFORE, in pursuance of said agreement and in consideration of ONE AND NO/100 (\$1.00) DOLLAR paid by LICENSEE to LICENSOR, receipt of which is hereby acknowledged and of the mutual covenant, agreements, conditions, and stipulations herein contained, it is mutually covenanted, stipulated and agreed by and between the parties hereto as follows:

1. PREMISES:

LICENSOR does hereby grant unto LICENSEE use of the parking lot located at the Delano-Hitch Recreation Park for rehearsals and other activities related to the Band according to the terms and conditions as hereinafter provided.

2. TERM:

The license granted hereunder shall be for a term of one (1) year, commencing upon the date this Agreement shall be properly executed by both parties, unless earlier terminated by either or both parties as provided herein.

3. CONSIDERATION:

The consideration shall be ONE AND No/100 (1.00) DOLLAR payable by LICENSOR to the LICENSEE upon execution of this License Agreement, and all such other covenants, promises and understandings provided herein.

4. USE AND OCCUPANCY:

LICENSEE shall use the Premises in a careful, safe and proper manner, and shall not use said premises or permit the same to be used for any purpose or business which is unlawful and shall comply with all lawful requirements of all current laws, ordinances, rules and regulations of all governmental authorities pertaining to the use of the Premises and according to the following conditions:

- a. Provide a written schedule of all rehearsals, programs and other uses of the parking lot to the City Manager or his designee during the term of the Agreement. A failure to do so may result in City canceling any or all such program(s).
- b. No programs or other uses may be scheduled to start after 8:00 p.m.
- c. The Licensee shall pay the cost of all personnel, supplies and equipment required for the use of the Premises.
- d. The Licensee shall, after each day of programs, return the parking lot to the City on that same day to a clean condition free of all equipment, garbage and debris. Licensee shall clean up all garbage generated in the area designated for use and deposit in proper trash receptacle.
- e. The Licensee shall have a representative with authority over all programs and activities present at all times. Noise levels shall be kept at appropriate decibel levels so as not to disturb neighbors.
- f. The Licensee shall cooperate with City authorities to provide necessary security and supervision of minors, participating in programs or present as spectators, during the period of this agreement. The Licensee shall be liable for any damage done to the premises by its officers, agents, servant, employees or invitees during the period of this agreement.
- g. The Licensee may store instruments, equipment and supplies in a location as designated by the City Manager or his designee.

5. LOAN OF INSTRUMENTS:

- A. LICENSOR agrees to loan musical instruments to LICENSEE for use by the members of the DAMB.
- B. LICENSEE shall be responsible for the maintenance and repair of the instruments loaned to LICENSEE by LICENSOR.
- C. LICENSEE shall be returned to the City upon the termination of this Agreement.

6. REPRESENTATIONS OF LICENSEE:

LICENSEE represents and warrants:

- A. That it is duly organized and existing under the laws of New York State;
- B. That it is financially solvent;
- C. That it is experienced and competent to perform the type of work and to provide the programs and services to be furnished by it;
- D. That it is familiar and in compliance with all federal, state, municipal and department laws, ordinances and regulations that apply to the work or programs or services or to those employed or engaged therein;
- E. That all of its employees have been screened and subject to the same pre-employment practices to which the City subjects its own employees; and
- F. That it has procured and paid for all permits and licenses necessary for the work, programs and services to be rendered hereunder.

7. INSURANCE:

A. LICENSEE shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the CITY who have been fully informed as to the nature of the programs provided or services to be performed. Except for Workers' Compensation and professional liability, the CITY shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of LICENSEE and not those of the CITY. Notwithstanding anything to the contrary in this Agreement, LICENSEE irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article. The provisions of insurance by LICENSEE shall not in any way limit LICENSEE'S liability under this Agreement.

B. LICENSEE shall not occupy the Premises or commence work or programs or provide services under this Agreement until it has obtained the following insurance required under this article and such insurance has been approved by the City:

1. Worker's Compensation - Statutory

2. General Liability and Property Damage Insurance - LICENSEE shall take out and maintain during the life of this agreement such general liability and property damage insurance as shall protect it from claims for damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this agreement. The amounts of such insurance shall be as follows:

- a. General Liability Insurance in an amount not less than \$1,000,000.00 for injuries including wrongful death to any one person and subject to the same

limit for each person, in an amount not less than \$3,000,000.00 on account of any one occurrence.

- b. Property Damage Insurance in an amount not less than \$500,000.00 for damage on account of all occurrences.

The Licensee shall furnish the above insurance to the City and shall also name the City as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this contract.

C. Any accident shall be reported to the Office of the City Manager as soon as possible and not later than twenty-four hours from the time of such accident. A detailed written report must be submitted to the City as soon thereafter as possible and not later than three (3) days after the date of such accident.

8. INDEMNITY AND SAVE HARMLESS AGREEMENT:

- A. It is hereby mutually covenanted and agreed that the relation of the LICENSEE to the work to be performed by it under this Agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances, whether or not the LICENSEE, its agents or employees have been negligent. The LICENSEE shall hold and keep the CITY free and discharged of and from any and all responsibility and liability of any sort or kind. The LICENSEE shall assume all responsibility for risks or casualties of every description, for loss, death or injury to persons or property arising out of the nature of the performance, other than those wholly caused by Acts of God or conditions pre-existing this license. The LICENSEE shall make good any damages that may occur in consequence of the performances or any part of it. The LICENSEE shall assume all blame, loss and responsibility of any nature by reason of the LICENSEE'S neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance.
- B. The LICENSEE agrees to indemnify and save the City, its officers, agents and employees harmless from any liability imposed upon the City, its officers, agents and/or employees arising from the negligence, active or passive, of the Licensee.
- C. It is understood and agreed between the parties that the LICENSEE shall have no right to control the actions of City employees nor any duty to supervise the actions of CITY employees.

9. LICENSOR'S RIGHT TO TERMINATE AGREEMENT:

LICENSOR shall have the right to terminate this Agreement under the following conditions:

- a. LICENSEE fails or refused to perform any of its obligations under this Agreement; or

- b. LICENSEE fails to comply with all applicable laws, regulations or ordinances; or
- c. LICENSEE commits a substantial violation of any provision of this Agreement.

LICENSOR, at its sole discretion, and, with or without cause, may without prejudice to any other remedy it may have, by seven (7) days written notice to the LICENSEE terminate the Agreement.

10. ADDRESSEES FOR PURPOSES OF NOTICE:

All notices, requests, demands, approvals or other communications given hereunder or in connection with this Agreement shall be in writing and shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, addressed as follows:

If to CITY: City of Newburgh
83 Broadway
Newburgh, NY 12550
Attn: City Manager

With copies to: City of Newburgh
83 Broadway
Newburgh, NY 12550
Attn: Corporation Counsel

If to LICNESEE:

Newburgh, NY 12550
Attn:

With copies to:

Attn:

11. ENFORCEABILITY:

Should any provision of this Agreement be deemed unenforceable for any reason, the remainder of this Agreement shall continue in effect so long as the purpose of this Agreement is not nullified by the absence of such provision.

12. NON-ASSIGNMENT:

LICENSEE shall not have the right to assign this Agreement without prior written approval of LICENSOR.

13. INVALIDITY OF PROVISIONS:

If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons whose circumstances are other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

14. HEADINGS:

It is understood and agreed that the headings are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of this Agreement, or in any way affect this Agreement.

15. ENTIRE AGREEMENT:

This Agreement contains the entire agreement between the parties and any agreement hereafter made shall be ineffective to change, modify or discharge it in whole or part unless such agreement is in writing and signed by both parties.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have signed this Agreement below.

(date)

CITY OF NEWBURGH, LICENSOR

By: _____

Michael G. Ciaravino
City Manager
Per Resolution No.

(date)

DYNAMIC APPROACH MARCHING BAND,
LICENSEE

By: _____

OLD BUSINESS

There was no old business.

NEW BUSINESS

Councilwoman Lee told Ms. Aquanetta Wright that she would like the members of City Hall to help her ask the Fairy Godmother to come back to the City of Newburgh because she hasn't danced since she left. She is hoping that she will come back to the City of Newburgh.

Mayor Kennedy said that she thinks that is a worthy discussion to have at some point because she truly enjoyed her being here as well.

Councilman Brown wished to showcase some local talent. He ran into a young man who used to frequent one of his stores who is an Author in the City of Newburgh and he is still writing books. He lives in the wonderful Ward 2 and his name is Derrick E. Thompson. He knows that is a published Author of both books for adults and children and he suggested that we support him. Julius Robinson who he considers to be a legend here in the City of Newburgh was our first African-American licensed plumber. He recently passed away but he was an icon in this community and many times allowed himself to do a job without payment because that is the kind of guy he was. He has been a staple here in the City so he would like to try to find a way to show that we appreciate his services so he would like to see if we can name a portion of Chambers Street after him just because of his significance and the legacy that he left here.

Mayor Kennedy said that speaking of Authors the same idea has occurred to her about the street that runs by the Library. James Patterson is one of our real heroes and she thinks he is the number one best seller in the Country so she thinks that it would be a cool idea to name part of that street after him. He also wants to do a youth Book Club with Junior High School students so she has to work on making that happen with the Schools.

Councilwoman Holmes said that she really thinks that they need to try to waive the fee for Pop Warner. She knows that for the last couple of years they have not received anything from the City so they should try to do this and help them in some way.

Mayor Kennedy said that she would encourage Pop Warner to bring their books and their finances with them because it will be helpful. They need to know what is actually going on with their finances.

Councilman Brown said that Pop Warner is another discussion but he is certainly in support of waiving that fee. Anyone who attends one of their games will be amazed to see how many kids they are serving there with both the football players and the cheerleaders.

There being no further comments this portion of the meeting was closed.

GENERAL COMMENTS FROM THE PUBLIC

Janet Gianopoulos, City of Newburgh, said that at a prior Council Meeting someone requested to receive the Agenda in Spanish and there was a very prompt response. We should also not have to question what the content of the resolution is about so she suggested that the resolutions be shown on the large screens to the audience members.

Michael Gabor, resident and business owner in the City of Newburgh, said that he didn't appreciate the flippant tone that he heard regarding the parking issue. He added that Councilman Brown mentioned Julius Robinson and he had the pleasure of using his services several times and he was probably one of the better Plumbers we have had here in the City of Newburgh. One of the things we should stop doing here is the ridiculous idea of having to use City licensed Plumbers and opening it up to Plumbers outside of the City because they have licenses that are just as valid. He feels that this is a very corrupt system. He noticed that there are a lot more trains passing by the City of Newburgh and he knows that some politicians have made some waves about the safety issues about the toxic chemicals that they are transporting. Most of the trains that go by are more than one hundred cars long and every one that goes by increases the risk of a bad accident happening here. Our emergency services are not equipped to handle a situation where there is an accident and if it happens here in our City it will destroy our Waterfront and hurt our City very badly. There are some citizens getting together to talk about this and he finds it interesting because one City Council person basically said that we don't have time to deal with this right now but every day with every train that goes by we are exposed to a risk that has not been dealt with and it only takes one time. There was a derailment down near Bear Mountain and we were very lucky that nothing happened there but this is on the River and one hundred cars carrying toxic substances getting into an accident in a highly populated area like the City of Newburgh would be extremely devastating. This needs to be kept in mind and we need to prioritize our problems here especially with our trains.

Matthew Prokosch, resident on Galloway Avenue and owner of the Terrace Tavern on Liberty Street, said that in 2011 and 2012 there were three shootings outside his Bar which were brought to the attention of the State Liquor Authority and now his Liquor License is in question along with his livelihood and the livelihood of his employees although none of these instances started inside the Bar and he has done what he can to help the Police Department with their investigations. Many complaints about the Bar stem from people loitering outside playing music and being loud. He feels that this is a police issue and not a bar issue. Grown people should be held accountable for their own actions. If people are allowed to drink on the street they will continue to do so and his request for more police presence around the time that the Bar is closing to make sure that people leave the area in an orderly fashion has been denied because of lack of police. He firmly believes that beat cops are needed in this area on nights and weekends to deter people from hanging on the streets and causing problems. Other usable tools would be more probation checks to make sure that people are not in the Bar if they shouldn't be. Since this problem in 2012 he has

changed things at the Bar in the way he operates such as not having a DJ on the weekend and closing earlier and by doing this they have eliminated a lot of the problems that were occurring. He feels that he has a good relationship with the people and businesses in the community that he serves, however, in an effort to be even more community friendly the Bar will close no later than 2:00 a.m. He doesn't feel that shutting down good tax paying businesses is the answer to Newburgh's problems and that efforts have to be made by the Politicians and the Police to do whatever it takes to keep businesses open and thriving and not close them down.

Harold Castle said in regard to Pop Warner Football that for the last twenty-six years he has been coaching youth football and every day of the week they coach over two hundred kids. His kids went for the first time to where they were represented at a Jets game. They played on that field for the first time and it wouldn't have been recognized if he didn't come to this meeting. They got to play on the field at Met Life Stadium and represent the City of Newburgh and many of these kids had never even left this community before. He encouraged everyone to go see one of their games on a Sunday because when you start looking at the kids you want to help them and that is all they are asking for.

Aquanetta Wright, said a lot people ask her about her mother and she just celebrated her 92nd birthday yesterday. She is grateful that she has had the opportunity be a "*full-time daughter*" for the last year and a half. She said that her house was broken into fourteen months ago and she knows the individuals who did it. She called the Police and gave them their names but she has not yet heard a thing from them. On a brighter note they had their second year of concerts here in the City of Newburgh. In August they had four concerts in and around Newburgh and she wished to thank a few people: Storm King Art Center, Newburgh Library, Newburgh Rotary Club, DMU Music, Huff N' Puff, Anderson Windows and Affinity Health Plan. She especially wanted to thank Dr. Hannah Brooks because she actually paid for one full concert by herself. She also wanted to thank the Police Auxiliary and asked if we could elaborate on them and help them to grow. Her gripe tonight is that she wants to know how many people on the Council had a conversation with the six different Casinos that are trying to build in Orange County. There are six Casinos trying to build in Orange County and in her opinion every single Council person should have pulled up to the table and had a conversation with them and asked "*What are you going to do for us*"? She knows for a fact that no one ever talked to the one with all of the money and she thinks that we have been bamboozled yet again but she is proud of those people who came out to the public hearing.

Marvin Davis, City of Newburgh, said that he came to this area in 1947 and he worked for Matt Prokosch when he first came here and he has never worked in a safer Bar. Everything that happened in front of that Bar happened when they shut down the Bodegas and the people started walking in front of the Bar. They did not come into the Bar because they weren't allowed in there but they still blamed Matt for everything that happened. You are not allowed to go out onto the street and tell them to get off the sidewalk as long as they are moving so how are you supposed to stop them from going out in front of the Bar? Matt did something he never saw another Bar owner do; he would sweep the sidewalks and clean

up to make sure that the Bar is presentable. He started closing earlier to protect himself from what was going on but yet they are taking this out on him. Why?

Mel Smith, local mortgage originator and business owner, said that he gets repeated calls every week from investors who want to buy here in the City. There are grants available to people who live here in Newburgh but he never hears about them. He thinks that if the City Council put this in front of the people that a lot of them would discover that they qualify to purchase a home and that may change the shift in this City to where people become homeowners and they will take pride in their city again. Instead of just letting everyone come in and buy as they please and creating the debacle of people getting evicted he thinks it would be great to have someone look at the grants that are available for the local people and put it out there to make the opportunity available. He added that most of the Council are women and he is sure that all of them love diamonds but every diamond you look at has an imperfection. This building is beautiful but it has imperfections and he is not trying to create a problem but if the Health Department heard about them they would want to come in and shut the building down which is what happened to Matt. If the Health Department came into City Hall and shut the building down the entire Council would have something to say about it so he asked the City Manager and the Mayor to take the lead here and seriously listen to what Matt said tonight because this means a lot. The man just lost his mother to Cancer and this was her business so he asked them all from the bottom of his heart to please help him out and fight for him.

Ms. Davidson, City of Newburgh said that she has worked in the daytime at the Terrace Tavern for twelve to thirteen years and there has never been an incident in that Bar on her shift. When she started working there her daughter was six years old and thank God for Matt and his family because her daughter is in College now. This is her livelihood so she is here to back up Matt tonight and ask the Council if there is anything that they can do to help him and to help her and her family. People go to Matt all the time when they need help and he never turns anyone away so please help him out with this.

Denise Hall, City of Newburgh, said that she came here from the Bronx and where she came from there was always a neighborhood Bar with cops patrolling the beat and they knew everybody in the neighborhood if there was any problem. She is here tonight to support Matt because she is not only a customer but she used to work as a waitress there so she would like to see this place stay open.

Tammy Hollins said that a few weeks ago there was a Police Department Open House held at the Activity Center and when she went up there she realized that many residents and Latinos came and completed applications so they are set to take that exam. She is one of the people who pushed to have that open house and she wanted to thank Michelle Mills and Vera Best for the great job they did and she wanted to thank the City Manager and the Council for making this happen. At the Open House the Police Department had a visual display of their Units and Departments showing what they do and what their services are and there were also Officers there to answer any questions. Her problem is that recently she did a ride along with some Officers one night and the way some of them approach people is really bad so her concern is that if the new Officers that are coming in are paired with one of these

Officers then everything that is being done here will be done for nothing because the change you want to see here will be reversed.

Michelle Campbell, said that Terrace Tavern has been there for a very long time and they helped her save her house when she was going into foreclosure so she is asking everyone here tonight to please give Matt a chance.

Willie Brunson, City of Newburgh, said that everyone at the Terrace Tavern calls him the Godfather and if there is any way that the City can help him then he wishes they would do it.

A City of Newburgh resident said that she came to Newburgh in 2006 and lives near the Bar and she never had any problems. She worked for him and they really hit it off so she asked the Council if they could please help him.

Stacey Burks, Pastor, said in regard to Pop Warner that his service starts at 2:00 on Sundays so he has the opportunity to watch the kids play football. It does his heart good to see the little girls cheering for their team and the young men with their football uniforms on. He sees the Coaches at the Pop Warner games and the N.F.A games and he has observed a gap that has to be fixed. He asked the City to help Pop Warner so they don't have to stand outside Dunkin Donuts trying to raise money because if we took care of them they wouldn't have to do that and their parents won't have to pay out of their pocket or go to the Town of Newburgh. He doesn't understand why the City of Newburgh team has to play at the Rec but the Town of Newburgh gets to plays at N.F.A. so perhaps they could rotate.

Barbara Smith said that she was channeling her friend Maryann Prokosch and she thinks that she would ask, *"If my business was closed or license taken away by the State then how can the City Council help me get back into business. How will the City help me convince the State that it is not my fault?"*

A Town of Newburgh resident said that she works two doors down from the Terrace Tavern and Matt is always cleaning out in front of his business and it is always quiet. She thinks we might be able to help him with the problems that he is having with perhaps more security but she loves the fact that he brings diversity to the street. She is there for Matt because he is a great person and him losing his license and his job is not a good thing because we need the businesses here.

Sheila Murphy, City of Newburgh, said that when the Council was running that Matt was the only one who allowed their petitions to be put up in his Bar for people to sign. She told the Council that they should write him a nice letter because there is not just crime in front of his Bar it's everywhere. If his Bar is going to shut down then the whole City of Newburgh needs to shut down because she doesn't understand why they are trying to close his business. She told Matt that he isn't going to be closed because she is tired of the Council doing what they want to certain people. In regard to the Police Department, yesterday she got a call that an individual was drugged in the Hospital because he had an Order of Protection against someone so they called the Police and the individual had a slight heart

attack so she had to go there. She said that the Police had a nurse help drug this individual so this needs to be addressed. Also, in regard to the Boards, her name has been on the list for six months yet she is not worthy to be on the Housing Authority Board so they do what they want to do and they put who they want on the Boards. They don't want people who are going to speak out and they talk about bilingual but we need basic English and math for the ones who don't know how to speak Spanish. As one of the Councilwomen said, we have put the Agenda in Spanish but what about Haitian and Chinese? She feels that our City is a hot mess and we have to start from the top and go all the way down to bottom and she is going to hold all of the Council accountable.

William Davis, 190 Washington Street, said that his father is about seventy five years old and he is always over at Matt's place visiting with his friends and they love that Bar. It's not just a Bar to them because it is like a home so if anyone can extend some love to Matt it would be greatly appreciated.

There being no further comments, this portion of the meeting was closed.

COUNCIL COMMENTS

Councilwoman Abrams said that Terrace Tavern losing its Liquor License has nothing to do directly with the City of Newburgh as the State Liquor Authority is the one who decided to take that License away and she is as sorry about that as anyone. Like many people have said tonight she does see Matt outside cleaning the sidewalk in front of his business and he has helped her often. He is a terrific long time Newburgher and he is loved as much as his mother was which is saying something. She wishes that they could brainstorm about this they will certainly do what they can to help him. A letter is the least they can do and she plans to write the best letter she has ever written for him. She thanked Peggy Bangert South Middle School Health Teacher for the great Anti-Tobacco poster that she and her students made. She noted that in Ward 2 in the Heights there will be a Halloween Party so wear your costumes and be prepared to Trick or Treat. There will also be face painting so they hope to see all the kids out there.

Councilwoman Angelo asked the Water Superintendent for an update on our woodchuck situation.

Jeffrey Wynans, Water Superintendent said that up to now we had a total of forty eight removed; thirty from Washington Lake and eighteen from Brown's Pond. The cost so far up through the end of October will be \$2400.00 and right now they are going into hibernation so this problem is slowly being eradicated.

Councilwoman Angelo said that about six months ago this was a serious problem and she had a constituent call her yesterday which is why she is asking for this update. She told Councilwoman Holmes that she has two candidates for the Police Advisory and she has already told Michelle. She added that tomorrow at the Waterfront you can have your soil checked for lead and the Clearwater and the Spanish Galeon ships will be down there also. We spoke about supporting the Department of Motor Vehicle but we really have to speak to the legislators. We received a letter from the Auxiliary Police and she thinks they should put that on the Agenda for the next Work Session to talk about it. In regard to the parking tickets, City Hall is closed at 4:00 every day yet tickets are still being given out between 4:00 and 6:00 and she feels that this is hurting some of the shoppers especially on Saturday. Greatway is leaving because of the parking situation so that will now be an empty block between Ann Street and Broadway but they created this problem themselves so they should think about helping the merchants and helping the City with public relations. She thanked everyone for coming tonight because it was an exciting meeting.

Councilman Brown said that we need to keep the DMV here in the City of Newburgh so he gave the phone number of Curlie Dillard, representative for the City of Newburgh which is (845) 561- 6929 and encouraged everyone to give him a call. He could not find the number of James Kulisek but we all need to give these people a call to let them know how important the DMV is to this City. He commended his fellow Council members for supporting the youth programs here in this City as it is very important that we do that. If

we don't support those programs, we will have kids running wild in this City so we need to stem that as best we can. To Matt he said that he owned a Bar here in the City of Newburgh so he knows what he is facing. There is nothing that you can do correctly to show the Liquor Authority that you have done your due diligence. They always find a reason to make you responsible for the actions of other people. As a former Bar owner who has fought with them time and time again, there isn't much you can do but he will certainly support Matt in his fight to maintain his Liquor License. He added that the phone number for Mr. Neuhaus, County Executive is (845) 291-4000 so please make those phone calls. He thanked everyone for coming and wished them a good night.

Mayor Kennedy added that the phone number for Jim Kulisek is (845) 542-1666. Call them all.

Councilwoman Holmes told Matt that any way she can support him she will. She is not sure what they can do but she will do whatever she can. In regard to Pop Warner, she has only been on the Council for one year but she was on the Civil Service Commission since 2010 and she has never seen the City help them. She has seen them help other non-profit agencies and they are only asking for a fee to be waived which is a small request. In regard to the Police Auxiliary, they do a lot of work and she has seen them at many events because we have a shortage of Police Officers and she doesn't think that they get the credit they deserve for what they do. She thanked everyone for coming out and giving their support to the businesses because we need to have our businesses here. If we don't, Newburgh is going to die so we need to strengthen and support our businesses.

Councilwoman Lee told Pop Warner that she offered to help them write a grant. They don't apply for funding and because they don't they don't get the funding so once again she is asking them to apply for funding. To Matt she said that she has never been in his Bar and she has never asked him to put her campaign sign in his window but he did call her and she recommended that he come to this meeting tonight. She doesn't mind helping him out but it is not on the heels of anything that he is doing for her.

Councilwoman Mejia agrees that they will help Matt because he is a key business on Liberty Street and she believes there are similar issues on upper Broadway and at the Waterfront area. She thinks it is about having a strategy of when our businesses close, especially the ones that close at a later time, and what is the police strategy for making sure that patrons and staff get home safely and the residents are not disturbed. She noted that there is a meeting tomorrow with the Distressed Property Task Force at 7:00 p.m. here in the Council Chambers. They will be presenting a progress report and perspective on the Newburgh properties initiatives. She liked the comments made earlier by the woman who has her business on Liberty Street stating that we are all a mixture. She agrees that we need to incorporate additional languages but to clarify around the Spanish part she is a Spanish speaker and it is the largest population here in the City of Newburgh. When they started translating the Agendas this year she took that on as a personal commitment. She wishes she knew Creole as she has been very involved with the Haitian community here and it is funny how when one portion of our community starts to be incorporated we get into all of these divisions asking what about the others. She would love not to go down that path

because at the end of the day we are one Newburgh and that Newburgh is a mixed Newburgh which is the Newburgh that she fell in love with and she thinks it's the Newburgh that they should continue to honor.

Mayor Kennedy said that it has been an exciting meeting with lots of input from lots of people and that is a great thing. She said that Matt also spoke with her and this isn't the first time that this has happened in this City and she believes that as a Council if they could write a letter together and send it to the Liquor Commission that it would carry some weight. She asked Matt if he would work with her on getting the Bars to close earlier in the whole City because nothing good happens in Bars from 2:00 am to 4:00 a.m. She encouraged every Bar in the City of Newburgh to close at 2:00 a.m. with last call at 1:30 a.m. She would like to pass that law at the County level which they could do but that is another thing that she wants to work on with our County legislators. If we do that, we can stop a lot of these issues that are happening. She knows that there are Bars on the west end of the City that are struggling with this too and it is because of people gathering outside of the Bars and the owners cannot control that which creates all kinds of chaos. Our Police Department needs to get involved with this in terms of breaking up these congregations and stopping the drinking outside of the Bar with open containers. This is against the law and we need to do something about it by preventing the fights before they happen. If everyone would work together to close by 2:00 a.m. then we wouldn't have to do legislation so she told all of the Bar owners to help with this and then they can help businesses stay in business. She added that we do need to support the youth programs and to Pop Warner and some of the other programs she knows that they are struggling with their finances so they need to have someone help them with that in terms of management. Councilwoman Lee suggested that they write for grants because standing on the street is not the best way to raise money so they need to get more bang from their buck and really work on the grants and get someone to help them manage finances. She has had vendors complain to her that Pop Warner does not pay their bills. That is a harsh thing to say but it is true so we need to help them succeed however we can. She added that for Halloween they are planning something called "Trunk or Treat" at the Activity Center where people want to make Trick or Treat safe for the children. People will open the trunks of their cars and then the kids can go by and get their candy out of the trunk of the car which sounds like a great and fun idea to her. She asked everyone to please support the DMV issue by calling and making their voices heard. She wanted to give a shout out and a thank you to George Green, New Windsor Supervisor, who called her and volunteered people from the New Windsor Highway Department to help our DPW with the bridge on Lake Street. The Spanish Galeon, the biggest sailing ship is down at our Waterfront this week so she encouraged everyone to go see it.

There being no further business to come before the Council the meeting adjourned at 10:30 p.m.

LORENE VITEK
CITY CLERK